

Justice Bill

[AS INTRODUCED]

LEGISLATIVE COMPETENCE

At Introduction the Minister of Justice had made the following statement under section 9 of the Northern Ireland Act 1998:

“In my view the Justice Bill would be within the legislative competence of the Northern Ireland Assembly.”

SECRETARY OF STATE'S CONSENT

The following statement is for the purpose of section 10(3)(b) of the Northern Ireland Act 1998:

The Secretary of State has consented to the Assembly considering this Bill.

Justice Bill

[AS INTRODUCED]

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A

BILL

TO

Amend the law about the retention and destruction of fingerprints and DNA profiles under Part 6 of the Police and Criminal Evidence (Northern Ireland) Order 1989; to amend the law about the release of children on bail and about their detention; to permit the use of live links for the exercise of certain police functions; to make other provision in connection with the administration of justice; and for connected purposes.

BE IT ENACTED by being passed by the Northern Ireland Assembly and assented to by His Majesty as follows:

PART 1

BIOMETRIC DATA: RETENTION ETC

Retention of fingerprints and DNA profiles

5 **1.**—(1) After Article 63A of the Police and Criminal Evidence (Northern Ireland) Order 1989 (destruction and retention of fingerprints and DNA profiles) insert—

“Retention and destruction of fingerprints, samples and profiles

Destruction of fingerprints and DNA profiles: introductory

63B.—(1) This Article applies to—

- 10 (a) fingerprints taken in the circumstances set out in paragraph (2), and
 (b) a DNA profile derived from a DNA sample taken in those circumstances.
- (2) The circumstances are that the fingerprints or sample are—
 (a) taken from a person under any power conferred by this Part, or

(b) taken by the police, with the consent of the person from whom they were taken, in connection with the investigation of an offence by the police.

(3) In this Part—

- 5 (a) “Article 63B material” means fingerprints and DNA profiles to which this Article applies;
- (b) “P”, in relation to any Article 63B material, means the person to whom the material relates (and “P’s material” means Article 63B material relating to P);
- 10 (c) references (however expressed) to the taking of Article 63B material are references—
- (i) in the case of fingerprints, to the taking of those fingerprints;
- (ii) in the case of a DNA profile, to the taking of the DNA sample (or samples) from which the DNA profile was derived;
- 15 (d) “consensual material” means Article 63B material taken as mentioned in paragraph (2)(b);
- (e) “non-consensual material” means Article 63B material taken as mentioned in paragraph (2)(a).
- (4) See Article 63Y for exclusions relating to certain Article 63B material.

20 **Destruction of fingerprints and DNA profiles: the basic rule**

63C.—(1) Article 63B material must be destroyed unless the material is retained in accordance with Articles 63D to 63U.

(2) In addition, Article 63B material must be destroyed if—

- 25 (a) it is being retained by virtue of an Article other than Article 63F, and
- (b) it appears to the Chief Constable that—
- (i) the taking of the material was unlawful, or
- (ii) the material was taken from P in connection with P’s arrest and the arrest was unlawful or based on mistaken identity.

30 (3) Nothing in this Article prevents a speculative search, in relation to Article 63B material, from being carried out within such time as may reasonably be required for the search if the Chief Constable considers the search to be desirable.

Retention of consensual material

35 **63D.** Consensual material may be retained only until it has fulfilled the purpose for which it was taken.

Retention of non-consensual material: overview and interpretation

63E.—(1) Non-consensual material may be retained only in accordance with Articles 63F to 63U, which—

(a) set out circumstances in which non-consensual material may be retained, and

(b) provide for how long the material may be retained in those circumstances.

5 (2) Where P's material may be retained by virtue of any of Articles 63F to 63S, all non-consensual material relating to P may be retained by virtue of that Article.

(3) Accordingly, where P's material may be retained by virtue of more than one of those Articles, all of P's non-consensual material may be retained
10 until the latest date provided by any of them ("the last retention date").

(4) Non-consensual material retained by virtue of any of Articles 63G to 63S must be destroyed on the day following the last retention date.

(5) Non-consensual material retained by virtue of Article 63F must be destroyed as soon as reasonably practicable after the last retention date, and
15 in any event before the end of the period of 14 days beginning with that date.

(6) Non-consensual material may not be retained, by virtue of any of Articles 63F to 63S, by virtue of any circumstance that occurs after the last retention date.

20 (7) Paragraphs (4) to (6) are without prejudice to Article 63C(2).

(8) Paragraphs (9) and (10) apply for the purposes of Articles 63F to 63U.

(9) Any reference to a person being convicted of an offence includes a reference to the making of an order for absolute or conditional discharge in respect of that offence, despite Article 6(1) of the Criminal Justice
25 (Northern Ireland) Order 1996 (conviction with absolute or conditional discharge deemed not to be a conviction).

(10) Any reference to a person being given a caution (including any reference to a person being convicted which, by virtue of Article 53B(1)(a), includes a reference to the person being given a caution) includes a reference
30 to the person being given an informed warning or a restorative caution.

(11) The Department may by regulations amend paragraph (10) to reflect a change in nomenclature of the disposals mentioned in that paragraph.

Retention of non-consensual material

Retention of Article 63B material pending investigation or proceedings

35 **63F.**—(1) This Article applies where—

(a) non-consensual material relating to P is taken in connection with the investigation of an offence, and

(b) it is suspected that P has been involved in the offence.

(2) This Article also applies where—

40 (a) non-consensual material relating to P is taken in connection with the investigation of one offence, and

(b) P is arrested for or charged with another offence.

(3) P's material may be retained—

(a) until the conclusion of the investigation (or, if there is more than one, the investigations) into the offence or offences, or

5 (b) where the investigation (or any of the investigations) gives rise to proceedings against P or any other person for an offence, until the conclusion of all of those proceedings.

(4) See Article 63T regarding the review of material retained by virtue of this Article.

Persons arrested for or charged with a qualifying offence

10 **63G.**—(1) This Article applies where P—

(a) is arrested for a qualifying offence other than an excepted offence but is not charged with that offence, or

(b) is charged with any qualifying offence but is not convicted of that offence.

15 (2) But this Article does not apply where Article 63I applies (charges left on the books).

(3) If P is charged with a qualifying offence but is not convicted of that offence, P's material may be retained until the end of the period of 3 years beginning with the date on which P is charged with the offence (but see also Article 63H).

20 (4) If—

(a) P is arrested for a qualifying offence other than an excepted offence but is not charged with that offence,

(b) any prescribed circumstances apply, and

25 (c) the Northern Ireland Commissioner for the Retention of Biometric Material (see Article 63Z) has consented under paragraph (5) to the retention of the material,

P's material may be retained until the end of the period of 3 years beginning with the date on which P is arrested for the offence (but see also Article 63H).

30 (5) The Commissioner may consent to the retention of material as mentioned in paragraph (4) if—

(a) an application is made to the Commissioner for the retention of that material, and

35 (b) the Commissioner considers it appropriate to retain the material.

(6) Regulations under paragraph (4)(b) may, in particular, make provision about the procedure to be followed in relation to any application to the Commissioner under paragraph (5).

(7) In this Article—

40 “excepted offence” means a terrorism-related qualifying offence or a national security-related qualifying offence;

“national security-related qualifying offence” means—

(a) an offence under section 18 of the National Security Act 2023 or listed in section 33(3)(a) of that Act, or

(b) an ancillary offence, as defined by Article 53A(4), relating to an offence listed in section 33(3)(a) of that Act;

5 “prescribed” means prescribed by regulations made by the Department of Justice;

“terrorism-related qualifying offence” means—

(a) an offence for the time being listed in section 41(1) of the Counter-Terrorism Act 2008 (see Article 53A(2)(r)), or

10 (b) an ancillary offence, as defined by Article 53A(4), relating to an offence for the time being listed in section 41(1) of that Act.

Courts’ power to extend period under Article 63G

15 **63H.**—(1) This Article applies where material is retained under Article 63G.

(2) The Chief Constable may apply to a district judge (magistrates’ courts) for an order which, in relation to particular material, extends the 3 year period set out in Article 63G(3) or (4) by a further period of 2 years beginning with the end of that 3 year period.

20 (3) An application for an order under paragraph (2) must be made within the period of 3 months ending on the last day of the 3 year period.

(4) The following persons may appeal to the county court against an order under paragraph (2), or a refusal to make such an order—

(a) the Chief Constable;

25 (b) P.

(5) If an order is made under paragraph (2), the material may be retained in accordance with that order.

30 (6) If an application is made under paragraph (2) and (apart from this paragraph) the material would be required to be destroyed before the application is finally determined (including any proceedings on appeal), the material may be retained until—

(a) proceedings on the application (including any proceedings on appeal) have been concluded, and

35 (b) any period during which an appeal may ordinarily be made has ended.

Persons with recordable offence count left on the books

63I.—(1) This Article applies where—

(a) P is charged with a recordable offence, and

(b) paragraph (2) applies to P in relation to that offence.

40 (2) This paragraph applies to P in relation to an offence if—

(a) P is charged with the offence in a count on an indictment, and

(b) the Crown Court orders that the count is to be left on the books not to be proceeded with against P without the consent of that Court or the Court of Appeal.

But this is subject to paragraph (3).

5 (3) Paragraph (2) does not apply if P is, in the same proceedings in which the count is ordered to be left on the books, convicted of a recordable offence.

10 (4) If the offence mentioned in paragraph (1) is a qualifying offence, P's material may be retained until the end of the period of 3 years beginning with the date on which the Crown Court makes the order mentioned in paragraph (2)(b).

15 (5) If the offence mentioned in paragraph (1) is a recordable offence other than a qualifying offence, P's material may be retained until the end of the period of 12 months beginning with the date on which the Crown Court makes the order mentioned in paragraph (2)(b).

Persons convicted of a qualifying offence

63J.—(1) This Article applies where P is convicted of a qualifying offence.

(2) P's material may be retained until the end of the period of 75 years beginning with the date on which P is convicted of the offence.

20 (3) See also Article 63N regarding the application of this Article where P is convicted outside Northern Ireland.

Persons aged 18 or over convicted of recordable offence other than qualifying offence

63K.—(1) This Article applies where—

25 (a) P is convicted of a recordable offence other than a qualifying offence, and

(b) P is aged 18 or over at the time of the offence.

30 (2) If P is given a custodial sentence in respect of the offence, P's material may be retained until the end of the period of 50 years beginning with the date on which P is convicted of the offence.

(3) If paragraph (2) does not apply, P's material may be retained until the end of the period of 25 years beginning with the date on which P is convicted of the offence.

35 (4) In this Article, "custodial sentence" has the same meaning as in Chapter 2 of Part 2 of the Criminal Justice (Northern Ireland) Order 2008.

(5) See also Article 63N regarding the application of this Article where P is convicted outside Northern Ireland.

Persons under 18 convicted of recordable offence other than qualifying offence

40 **63L.**—(1) This Article applies where—

(a) P is convicted of a recordable offence other than a qualifying offence,
and

(b) P is aged under 18 at the time of the offence.

5 (2) But this Article does not apply where Article 63M (first minor offence)
applies.

(3) If P is given a custodial sentence of 5 years or more in respect of the
offence, P's material may be retained until the end of the period of 50 years
beginning with the date on which P is convicted of the offence.

10 (4) If paragraph (3) does not apply, P's material may be retained until the
end of the period of 25 years beginning with the date on which P is
convicted of the offence.

(5) In this Article, "custodial sentence" has the same meaning as in Chapter
2 of Part 2 of the Criminal Justice (Northern Ireland) Order 2008.

15 (6) See also Article 63N regarding the application of this Article where
P is convicted outside Northern Ireland.

Exception for persons under 18 convicted of first minor offence

63M.—(1) This Article applies where—

(a) P is convicted of a recordable offence other than a qualifying offence,

(b) P is aged under 18 at the time of committing the offence, and

20 (c) the offence is P's first offence (see paragraph (2)).

(2) For the purposes of paragraph (1)(c), an offence is P's first offence
if, at the time of committing the offence, P has not—

(a) been convicted of a recordable offence,

25 (b) been convicted of an offence under the law of a country or territory
outside Northern Ireland where the act constituting the offence would
constitute a recordable offence if done in Northern Ireland,

(c) been given a caution in respect of a recordable offence, or

30 (d) completed the diversionary youth conference process or the
community-based restorative justice scheme process with respect to
a recordable offence;

but see paragraph (3).

(3) This Article does not apply where, in the proceedings in which P is
convicted of the offence mentioned in paragraph (1)(a), P is convicted of
another recordable offence.

35 (4) If P is given a custodial sentence of 5 years or more in respect of the
offence, P's material may be retained until the end of the period of 50 years
beginning with the date on which P is convicted of the offence.

40 (5) If P is given a custodial sentence of less than 5 years in respect of
the offence, P's material may be retained until the end of the period
consisting of the term of the sentence plus 5 years, beginning with the date
on which P is convicted of the offence.

(6) If neither paragraph (4) nor paragraph (5) applies, P's material may be retained until the end of the period of 5 years beginning with the date on which P is convicted of the offence.

5 (7) For the purposes of paragraph (2)(b) it does not matter whether the act would have constituted a recordable offence at the time when P was convicted.

(8) In paragraphs (4) and (5) "custodial sentence" has the same meaning as in Chapter 2 of Part 2 of the Criminal Justice (Northern Ireland) Order 2008.

10 (9) For the purposes of paragraph (5), "the term of the sentence", in the case of a juvenile justice centre order under Article 39 of the Criminal Justice (Children) (Northern Ireland) Order 1998, is the period for which the person is detained under the order.

15 (10) See also Article 63N regarding the application of this Article where P is convicted outside Northern Ireland.

Persons convicted of offence outside Northern Ireland: application of Articles 63J to 63M

63N.—(1) This Article provides for the application of Articles 63J to 63M where P is convicted of an offence outside Northern Ireland.

20 (2) The reference in Article 63J(1) to being convicted of a qualifying offence includes being convicted of an offence under the law of a country or territory outside Northern Ireland where the act constituting the offence would constitute a qualifying offence if done in Northern Ireland.

25 (3) The references in Articles 63K(1), 63L(1) and 63M(1)(a) to being convicted of a recordable offence other than a qualifying offence include being convicted of an offence under the law of a country or territory outside Northern Ireland where the act constituting the offence, if done in Northern Ireland—

(a) would constitute a recordable offence, but

30 (b) would not constitute a qualifying offence.

(4) For the purposes of paragraphs (2) and (3) it does not matter whether the act would have constituted such an offence at the time when P was convicted.

35 (5) Where Articles 63J to 63M apply in accordance with this Article, any reference in them to a custodial sentence is to be read as a reference to a sentence of imprisonment or other form of detention.

Persons under 18 given a caution

63O.—(1) This Article applies where P—

40 (a) is given a caution in respect of a recordable offence which, at the time of the caution, the person admitted, and

(b) is aged under 18 at the time of the offence.

(2) P's material may be retained until the end of the period of 5 years beginning with the date on which P is given the caution.

Persons completing diversionary youth conference or community-based restorative justice scheme

63P.—(1) This Article applies where P has completed either of the following with respect to a recordable offence—

(a) the diversionary youth conference process;

(b) the community-based restorative justice scheme process.

(2) P's material may be retained until the end of the period of 5 years beginning with the date on which P completed the process.

(3) For the purposes of this Article, P completes the diversionary youth conference process with respect to an offence if (and only if)—

(a) a diversionary youth conference under Part 3A of the Criminal Justice (Children) (Northern Ireland) Order 1998 has been completed with respect to P and that offence, and

(b) the Director of Public Prosecutions, having considered the report of the youth conference co-ordinator, has determined not to institute proceedings against P in respect of the offence or, as the case may be, not to continue proceedings already instituted against P in respect of the offence.

(4) For the purposes of this Article, P completes the community-based restorative justice process with respect to an offence if (and only if)—

(a) P has completed a plan, or any other requirements for successful completion, established with respect to that offence in accordance with a community-based restorative justice scheme within the meaning of section 43 of the Justice and Security (Northern Ireland) Act 2007, and

(b) the Director of Public Prosecutions, having been informed by the Chief Constable of that completion, has determined not to institute proceedings against P in respect of the offence or, as the case may be, not to continue proceedings already instituted against P in respect of the offence.

Persons given a penalty notice

63Q.—(1) This Article applies where—

(a) P is given a penalty notice under section 60 of the Justice Act (Northern Ireland) 2011 in respect of a recordable offence, and

(b) no proceedings are brought against P for the offence.

(2) P's material may be retained until the end of the period of 2 years beginning with the date on which P was given the penalty notice.

Persons subject to notification requirements

63R.—(1) This Article applies where P is subject to a notification requirement.

5 (2) P's material may be retained until P ceases to be subject to the notification requirement.

(3) For the purposes of this Article, P is subject to a notification requirement if—

- 10 (a) P is subject to the notification requirements of Part 2 of the Sexual Offences Act 2003 (within the meaning of that Part);
 - (b) P is subject to the notification requirements of Part 2 of Schedule 3 to the Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015;
 - (c) P is subject to the notification requirements of Part 8 of the Justice Act (Northern Ireland) 2015;
 - 15 (d) the notification requirements imposed by section 14 of the Protection from Stalking Act (Northern Ireland) 2022 apply to P.
- (4) The Department of Justice may by regulations amend the list of notification requirements set out in paragraph (3).

Courts' power to extend period

20 **63S.**—(1) This Article applies where P's material is retained by virtue of any of Articles 63I to 63R.

(2) The Chief Constable may, in relation to any particular material, apply to a district judge (magistrates' courts) for an order permitting the continued retention of the material beyond the day on which it would otherwise be
25 required to be destroyed.

(3) An order under paragraph (2) may not be made in relation to material if a determination under paragraph 7 of Schedule 1 to the Protection of Freedoms Act 2012 (retention of material for the purposes of national security) is in effect in relation to that material.

30 (4) In addition, an order under paragraph (2) may be made only if the district judge is satisfied that the following conditions are met—

- (a) there are substantial grounds for believing that the retention of the material will assist in achieving a purpose set out in paragraph (5),
and
 - 35 (b) the continued retention of the material is a proportionate means of achieving that purpose.
- (5) The purposes are—
- (a) protecting life or preventing serious harm to an individual;
 - (b) preventing serious crime or disorder;
 - 40 (c) identifying an individual (including an individual who is dead or missing).

(6) The district judge, in considering whether the conditions set out in paragraph (4) are met, must consider (in particular)—

(a) P's offending history (including the nature and seriousness of any offences committed by P);

5 (b) the nature and seriousness of any risk to the public if the purposes set out in paragraph (5) cannot be achieved due to the destruction of P's material;

(c) any risk that P will commit further offences and whether the retention of P's material might assist in the investigation of those offences;

10 (d) any difficulty there may be in locating and arresting P, and therefore taking further material from P, in the event that P is suspected of committing further offences.

(7) An order under paragraph (2)—

15 (a) must specify a period, of not more than 2 years, for which the continued retention of the material is permitted;

(b) may be varied by a further order extending that period by not more than 2 years at any one time.

(8) An application under paragraph (2) must be made—

20 (a) within the period of 3 months ending with the day before the day mentioned in that paragraph, or

(b) if an order has previously been made under paragraph (2), within the last 3 months of the period specified in that order.

(9) The following persons may appeal to the county court against an order under paragraph (2), or a refusal to make such an order—

25 (a) the Chief Constable;

(b) P.

(10) If an order is made under paragraph (2), the material may be retained in accordance with that order.

30 (11) If an application is made under paragraph (2) and (apart from this paragraph) the material would be required to be destroyed before the application is finally determined (including any proceedings on appeal), the material may be retained until—

(a) proceedings on the application (including any proceedings on appeal) have been concluded, and

- (b) any period during which an appeal may ordinarily be made has ended.

Review of continued retention

Review of retention where material retained for investigations

5 **63T.**—(1) This Article applies where there is an investigation into an offence (or offences) and any of P’s material is retained by virtue of Article 63F in connection with that investigation.

(2) The Chief Constable must conduct a review of the retention of P’s material—

10 (a) before the end of the period of 5 years beginning with the date on which P is arrested for, or charged with, the offence or offences (or, if there is more than one such date, the latest of them), and

(b) thereafter, before the end of each period of 5 years beginning with the previous review under this Article.

15 (3) On a review under this Article, the Chief Constable must consider—

(a) whether P remains, or should remain, a suspect in the investigation (or investigations), and

20 (b) whether P’s material has, or may have, evidential value in that investigation (or those investigations) or in any proceedings to which that investigation (or those investigations) may give rise.

(4) If the Chief Constable, following a review under this Article, determines that P’s material should no longer be retained by virtue of Article 63F, all of P’s material that is retained by virtue of that Article must be destroyed, unless it may be retained by virtue of any other Article.

25 (5) The Department of Justice may in regulations set out additional factors that the Chief Constable must consider, or factors that the Chief Constable may or must not consider, in conducting a review.

(6) In particular, the regulations may provide that—

30 (a) material of a specified description;

(b) material relating to persons of a specified description;
must, or must not, be retained following a review.

(7) “Specified” means specified in the regulations.

(8) Before making regulations under paragraph (5), the Department must consult such persons as the Department considers appropriate.

35 **Review of retention where material retained for long term**

63U.—(1) The Department of Justice must by regulations require the Chief Constable, where any of P’s material is retained by virtue of Articles 63J(2), 63K(2) and (3), 63L(3) and (4) and 63M(4), to conduct a review of the retention of P’s material.

40 (2) The review is to be of all of P’s material that is retained by virtue of Articles 63D, 63G to 63Q and 63S.

(3) The regulations may, in particular, make provision—

(a) about when, and in what circumstances, the reviews must be conducted;

5 (b) enabling P to request that a review be conducted, subject to such conditions as may be specified;

(c) requiring that P be notified of the outcome of the review;

(d) conferring a right of appeal against a determination made on a review and about the procedure on such appeals (including the payment of fees).

10 (4) The regulations may set out factors that the Chief Constable must, may or must not consider in conducting a review.

(5) In particular, the regulations may provide that—

(a) material of a specified description;

15 (b) material relating to persons of a specified description; must, or must not, be retained following a review.

(6) “Specified” means specified in the regulations.

20 (7) If the Chief Constable, following a review under this Article, determines that P’s material should no longer be retained by virtue of Articles 63D, 63G to 63Q and 63S, all of P’s material that is retained by virtue of any of those Articles must be destroyed, unless it may be retained by virtue of Article 63F or 63R.

(8) Before making regulations under paragraph (1), the Department must consult such persons as the Department considers appropriate.

Destruction and use of material

25 **Destruction of copies**

63V.—(1) If fingerprints are required by Article 63C to be destroyed, any copies of the fingerprints held by the police must also be destroyed.

30 (2) If a DNA profile is required by that Article to be destroyed, no copy may be retained by the police except in a form which does not include information which identifies the person to whom the DNA profile relates.

Destruction of samples

63W.—(1) This Article applies to samples—

(a) taken from a person under any power conferred by this Part, or

35 (b) taken by the police, with the consent of the person from whom they were taken, in connection with the investigation of an offence by the police.

(2) A DNA sample to which this Article applies must be destroyed—

(a) as soon as a DNA profile has been derived from the sample, or

40 (b) if sooner, before the end of the period of 6 months beginning with the date on which the sample was taken.

(3) Any other sample to which this Article applies must be destroyed before the end of the period of 6 months beginning with the date on which it was taken.

5 (4) Nothing in this Article prevents a speculative search, in relation to samples to which this Article applies, from being carried out within such time as may reasonably be required for the search if the Chief Constable considers the search to be desirable.

Use of retained material

10 **63X.**—(1) Any material to which Article 63B or 63W applies must not be used other than—

- (a) for purposes related to the prevention or detection of crime, the investigation of an offence or the conduct of a prosecution, or
- (b) for purposes related to the identification of a deceased person or of the person to whom the material relates.

15 (2) Material which is required by Article 63C or 63W to be destroyed must not at any time after it is required to be destroyed be used—

- (a) in evidence against the person to whom the material relates, or
- (b) for the purposes of the investigation of any offence.

(3) In this Article—

- 20 (a) the reference to using material includes a reference to allowing any check to be made against it and to disclosing it to any person,
- (b) the reference to crime includes a reference to any conduct which—
 - 25 (i) constitutes one or more criminal offences (whether under the law of Northern Ireland or of any country or territory outside Northern Ireland), or
 - (ii) is, or corresponds to, any conduct which, if it all took place in Northern Ireland, would constitute one or more criminal offences, and
- 30 (c) the references to an investigation and to a prosecution include references, respectively, to any investigation outside Northern Ireland of any crime or suspected crime and to a prosecution brought in respect of any crime in a country or territory outside Northern Ireland.

Exclusions

35 Exclusion for certain regimes

63Y. —(1) Articles 63B to 63X do not apply to material to which paragraphs 20A to 20J of Schedule 8 to the Terrorism Act 2000 (destruction, retention and use of material taken from terrorist suspects) apply.

40 (2) Any reference in those Articles to a person being arrested for, or charged with, an offence does not include a reference to a person—

- (a) being arrested under section 41 of that Act, or

(b) being charged with an offence following an arrest under that section.

(3) Articles 63B to 63X do not apply to material to which paragraph 8 of Schedule 4 to the International Criminal Court Act 2001 (requirement to destroy material) applies.

5 (4) Articles 63B to 63X do not apply to material to which paragraph 6 of Schedule 6 to the Terrorism Prevention and Investigation Measures Act 2011 (requirement to destroy material) applies.

10 (5) Articles 63B to 63X do not apply to material to which paragraphs 43 to 51 of Schedule 3 to the Counter-Terrorism and Border Security Act 2019 (destruction, retention and use of material) apply.

(6) Articles 63B to 63X do not apply to material to which—

(a) Part 4 of Schedule 6 to the National Security Act 2023 (dealing with fingerprints and samples etc: UK) applies, or

15 (b) paragraph 6 of Schedule 12 to that Act (requirement to destroy material) applies.

(7) Articles 63B to 63X do not apply to material which is, or may become, disclosable under—

(a) the Criminal Procedure and Investigations Act 1996, or

20 (b) a code of practice prepared under section 23 of that Act and in operation by virtue of an order under section 25 of that Act.

(8) A sample that—

(a) falls within paragraph (7), and

25 (b) but for that paragraph would be required to be destroyed under Article 63W,

must not be used other than for the purposes of any proceedings for the offence in connection with which the sample was taken.

30 (9) A sample that once fell within paragraph (7) but no longer does, and so becomes a sample to which Article 63W applies, must be destroyed immediately if the time specified for its destruction under that Article has already passed.

(10) Articles 63B to 63X do not apply to material which—

(a) is taken from a person, but

(b) relates to another person.

35 (11) Articles 63B to 63X do not apply to a DNA sample, or to a DNA profile derived from a sample, if—

(a) the DNA sample was taken before Article 63B came into operation, and

40 (b) the sample or (as the case may be) the profile is held in a non-searchable format for the purposes only of forensic processing and analysis.

(12) Nothing in Articles 63B to 63X affects any power conferred by—

(a) paragraph 18(2) of Schedule 2 to the Immigration Act 1971 (power to take reasonable steps to identify a person detained), or

- (b) section 20 of the Immigration and Asylum Act 1999 (disclosure of police information to the Secretary of State for use for immigration purposes).

Commissioner for the Retention of Biometric Material

5 **Northern Ireland Commissioner for the Retention of Biometric Material**

63Z.—(1) The Department of Justice must appoint a Commissioner to be known as the Northern Ireland Commissioner for the Retention of Biometric Material.

10 (2) Schedule 2B (which makes provision about the Commissioner and the exercise of the Commissioner's functions) has effect.

(3) The Commissioner must keep under review—

- (a) the acquisition, in accordance with this Part, of Article 63B material, and
- 15 (b) the retention and use, in accordance with Articles 63A and 63B to 63X, of any material to which Article 63B or 63W applies and of any copies of any Article 63B material.

(4) The Commissioner must also keep under review the use and development of existing and new biometric technologies used by, or capable of being used by, law enforcement authorities for the prevention and detection of crime in Northern Ireland (including technologies that are being used or developed outside the United Kingdom).

(5) The Commissioner may issue guidance about—

- (a) the acquisition of Article 63B material in accordance with this Part, and
- 25 (b) the handling, retention and destruction of material in accordance with Articles 63C to 63X;

and the Commissioner may from time to time revise that guidance.

(6) The Chief Constable must have regard to any guidance issued under paragraph (5).

30 (7) In addition to the functions conferred by this Article—

- (a) the Commissioner has functions under Article 63G(4)(c) and (5);
- (b) regulations under Article 63U(3)(d) may confer functions on the Commissioner.

Reports by Commissioner

35 **63Z1.**—(1) The Commissioner appointed under Article 63Z must make a report to the Department of Justice about the carrying out of the Commissioner's functions as soon as reasonably practicable after the end of—

- 40 (a) the period of 12 months beginning with the date on which this Article comes into operation, and

(b) every subsequent 12 month period.

(2) The Commissioner may also, at any time, make such reports to the Department of Justice on any matter relating to the Commissioner's functions as the Commissioner considers appropriate.

5 (3) The Department of Justice may at any time require the Commissioner to report on any matter relating to the Commissioner's functions.

(4) On receiving a report from the Commissioner under this Article, the Department must—

(a) publish the report, and

10 (b) lay a copy of the published report before the Assembly.

(5) The Department may, after consultation with the Commissioner, exclude from publication any part of a report under this Article if, in the opinion of the Department, the publication of that part would be contrary to the public interest.”.

15 (2) Schedule 1 inserts new Schedule 2B into the Police and Criminal Evidence (Northern Ireland) Order 1989, relating to the Northern Ireland Commissioner for the Retention of Biometric Material.

Retention of fingerprints and DNA profiles: amendments

2. In Schedule 2—

20 (a) Part 1 makes further amendments of Articles 63B to 63Z1 (as inserted by section 1), relating to certain sentencing disposals;

(b) Part 2 makes minor and consequential amendments.

Retention of fingerprints and DNA profiles: supplementary

25 **3.**—(1) Nothing in section 1 or Schedule 1 or 2 affects the operation of Article 63DA of the Police and Criminal Evidence (Northern Ireland) Order 1989, as inserted by paragraph 5(3) of Schedule 2 to the Counter-Terrorism and Border Security Act 2019 (or the operation of Articles 63B to 63R of that Order, as inserted by section 9 of and Schedule 2 to the Criminal Justice Act (Northern Ireland) 2013, so far as they relate to Article 63DA).

30 (2) The provisions inserted by that section and those Schedules (“the new provisions”) apply in relation to fingerprints and in relation to DNA profiles and DNA samples regardless of when the fingerprints or, as the case may be, DNA sample was taken; but this is subject to subsections (3) to (9).

35 (3) Subsections (4) and (5) apply where fingerprints were taken, or a DNA sample was taken, before commencement day from a person (“P”) with P’s consent, in connection with the investigation of an offence.

(4) If P was not a suspect in the investigation at the time of the taking of the fingerprints or sample, the material is to be treated as consensual material (and, accordingly, the material may be retained only in accordance with Article 63D).

40 (5) If P was a suspect in the investigation at the time of the taking of the fingerprints or sample, the material is to be treated as non-consensual material

(and, accordingly, P’s material may be retained only in accordance with Articles 63F to 63U).

(6) If fingerprints taken before commencement day are required, by virtue of the new provisions, to be destroyed, the fingerprints (and any copy of them) are not required to be destroyed—

(a) in the case of fingerprints (or a copy) held in printed form, before the end of the period of 2 years beginning with commencement day;

(b) in any other case, before the end of the period of 6 months beginning with commencement day.

(7) If—

(a) a DNA sample was taken before commencement day, and

(b) the sample or a DNA profile derived from it is required, by virtue of the new provisions, to be destroyed,

the sample or (as the case may be) the profile is not required to be destroyed before the end of the period of 6 months beginning with commencement day.

(8) In the case of fingerprints or a DNA sample or DNA profile which would, but for subsection (6)(a) or (b) or (7), be required to be destroyed before the end of the period mentioned in that provision, Articles 63G(4) to (6), 63H, 63S and 63W (extension of retention periods) do not apply.

(9) In the case of material taken before commencement day, the first review under Article 63T must be conducted before the end of the period of 4 years beginning with commencement day (and this requirement applies in place of Article 63T(2)(a)).

(10) The Department may by regulations make such further transitional, transitory or saving provision as the Department considers appropriate in connection with the coming into force of this section.

(11) The provision that may be made under subsection (10) includes provision modifying the effect of subsections (3) to (9).

(12) In this section, “commencement day” means the day on which section 1 comes into operation.

PART 2

CHILDREN

Bail

Duties of custody officer after charge

4. In Article 39 of the Police and Criminal Evidence (Northern Ireland) Order 1989 (duties of custody officer after charge), in paragraph (2A)—

(a) omit the “and” at the end of sub-paragraph (c), and

(b) at the end of sub-paragraph (d) insert “; and

(e) in the case of an arrested juvenile—

(i) the juvenile’s age, maturity and needs;

- (ii) the juvenile’s capacity to understand and comply with any condition of bail.”.

Police bail after arrest

5 **5.**—(1) Article 48 of the Police and Criminal Evidence (Northern Ireland) Order 1989 (bail after arrest) is amended in accordance with subsections (2) to (4).

(2) In paragraph (3D)—

(a) omit the “and” at the end of sub-paragraph (b), and

(b) at the end of sub-paragraph (c) insert “; and

(d) he does not cause a serious threat to public order.”.

10 (3) In paragraph (3F)—

(a) in the words before sub-paragraph (a) omit “preventing that person from”,

(b) at the start of each of sub-paragraphs (a), (b) and (c) insert “preventing that person from”,

(c) omit the “or” at the end of sub-paragraph (b), and

15 (d) at the end of sub-paragraph (c) insert “; or

(d) preventing that person’s release from causing a serious threat to public order.”.

(4) After paragraph (3H) insert—

20 “(3I) Article 48ZA contains further provision concerning the application of this Article to arrested juveniles.”.

(5) After that Article insert—

“Bail after arrest: juveniles

48ZA.—(1) This Article applies where a custody officer—

(a) grants bail to an arrested juvenile, or

25 (b) varies the conditions of bail of an arrested juvenile under Article 48(3E).

(2) In deciding whether to impose a condition of bail a custody officer must have regard to any considerations which appear to the officer to be relevant including—

30 (a) the nature and seriousness of the offence,

(b) the character, antecedents, associations and community ties of the juvenile,

(c) the juvenile’s record as respects the fulfilment of the juvenile’s obligations under previous grants of bail,

35 (d) the strength of the evidence of the juvenile’s having committed the offence,

(e) the juvenile’s age, maturity and needs, and

(f) the juvenile’s capacity to understand and comply with any condition of bail.

(3) A condition of bail must be no more onerous than is necessary for the purpose for which it is imposed.”.

Court bail

6. After Article 10D of the Criminal Justice (Children) (Northern Ireland) Order 1998 insert—

“PART 3B

BAIL, REMAND AND COMMITTAL

Bail

Right to bail

10E.—(1) A child to whom this Article applies must be released on bail, except as provided for in Article 10F (power to refuse bail).

(2) This Article applies to a child arrested for or charged with an offence where, in connection with the offence or proceedings for the offence, the child—

- (a) appears or is brought before a court, or
- (b) is the subject of an application to a court to grant, vary or revoke bail.

(3) But this Article does not apply to a child if—

- (a) the child is convicted of the offence, or
- (b) the child is in custody—
 - (i) having been refused bail in respect of another offence,
 - (ii) in pursuance of a sentence of a court, or
 - (iii) in pursuance of a sentence imposed by an officer under the Armed Forces Act 2006.

(4) For the purposes of paragraph (3)(a) any of the following is to be treated as a conviction—

- (a) a finding of guilt;
- (b) a finding that the child is not guilty by reason of insanity;
- (c) a finding that the child is unfit to be tried and that the child did the act or made the omission charged;
- (d) a conviction of an offence for which an order is made discharging the child absolutely or conditionally.

(5) But a finding under Article 51(1) of the Magistrates’ Courts (Northern Ireland) Order 1981 that a child charged with an offence did the act or made the omission charged is not to be treated as a conviction for the purposes of paragraph (3)(a).

(6) Nothing in this Article is to be taken to affect any power of a court to—

- (a) release a child without bail, or
- (b) grant bail on compassionate grounds.

(7) This Article is subject to Article 38 of the Magistrates' Courts (Northern Ireland) Order 1981 (bail in treason and related offences).

5 **Power to refuse bail**

10F.—(1) A court may refuse to release a child on bail under Article 10E if it is satisfied that the following two conditions are met.

(2) The first condition is that if the child is convicted of the offence it is very likely that a custodial sentence will be imposed.

10 (3) The second condition is that there are substantial grounds for believing that it is necessary to remand the child in custody to prevent—

- (a) the child failing to surrender to custody,
- (b) the child committing an offence while on bail,
- 15 (c) the child interfering with witnesses or otherwise obstructing the course of justice, whether in relation to the child or any other person, or
- (d) the child's release causing a serious threat to public order.

Conditions of bail

20 **10G.**—(1) This Article applies, subject to paragraph (5), where a court is deciding whether to—

- (a) impose a condition when granting bail, or in respect of bail that has been granted, under Article 10E, or
- (b) vary or remove a condition in respect of bail that has been granted under Article 10E.

25 (2) The court must not impose a condition of bail unless it is satisfied that it is necessary to do so to prevent—

- (a) the child failing to surrender to custody,
- (b) the child committing an offence while on bail,
- 30 (c) the child interfering with witnesses or otherwise obstructing the course of justice, whether in relation to the child or any other person, or
- (d) the child's release causing a serious threat to public order.

(3) The court must not impose a condition of bail that is more onerous than is necessary for the purpose for which it is imposed.

35 (4) The court must remove a condition of bail if it is satisfied that the condition—

- (a) is no longer necessary for a purpose mentioned in paragraph (2), or
- (b) is more onerous than is necessary for the purpose for which it was imposed.

40 (5) Paragraphs (2) and (4)(a) do not apply—

- (a) to the imposition of a curfew requirement or an electronic monitoring requirement as a condition of bail (as to which, see Article 43 of the Criminal Justice (Northern Ireland) Order 2008), or
- 5 (b) where a court has a duty to impose conditions under Article 51(2) of the Magistrates' Courts (Northern Ireland) Order 1981 (inquiry into physical or mental condition).

Considerations relevant to bail

- 10H.—(1) This Article applies where a court is deciding whether to—
- 10 (a) refuse to release a child on bail under Article 10F,
 - (b) impose a condition when granting bail, or in respect of bail that has been granted, under Article 10E, or
 - (c) vary or remove a condition in respect of bail that has been granted under Article 10E.
- 15 (2) The court must have regard to the following matters, insofar as they are relevant—
- (a) the nature and seriousness of the offence;
 - (b) the strength of evidence against the child;
 - (c) the child's character and history, including—
 - 20 (i) the nature of any previous convictions,
 - (ii) the conduct of the child during any previous grants of bail;
 - (d) the child's community ties and associations;
 - (e) the child's age, maturity and needs;
 - (f) the child's capacity to understand and comply with any condition of bail.

25 Record of decisions concerning bail

- 10I.—(1) This Article applies where a court—
- 30 (a) refuses to release a child on bail under Article 10F,
 - (b) imposes a condition when granting bail, or in respect of bail that has been granted, under Article 10E, or
 - (c) varies or removes a condition in respect of bail that has been granted under Article 10E.
- (2) The court must—
- 35 (a) give reasons for its decision in open court,
 - (b) make a record of—
 - (i) the decision, and
 - (ii) the reasons for the decision, and
 - (c) if the child requests it, cause a copy of the record to be given to the child.

(3) In complying with paragraph (2) the court must use language that is appropriate to the age, maturity and understanding of the child.”.

Arrest for absconding or breaking conditions of bail

7.—(1) Article 6 of the Criminal Justice (Northern Ireland) Order 2003 (arrest for absconding or breaking conditions of bail) is amended as follows.

(2) After paragraph (3) insert—

“(3ZA) Before deciding whether to arrest a child under paragraph (3)(b), the constable must consider the nature and seriousness of the likely breach or breach of the conditions of bail.

(3ZB) Where a constable has the power to arrest a child under paragraph (3)(b) but decides not to, the constable must—

(a) make a record of the decision (including the reasons for the decision), and

(b) on the next occasion when the child is brought before a court, cause a copy of the record to be given to the court.”.

(3) After paragraph (7) insert—

“(8) In this Article, “child” means a person who is under the age of 18.”.

Considerations relevant to bail: accommodation

8.—(1) In the Police and Criminal Evidence (Northern Ireland) Order 1989, in Article 39 (duties of custody officer after charge), after paragraph (2A) insert—

“(2B) The custody officer, in taking a decision mentioned in paragraph (2A) in respect of an arrested juvenile, may consider the juvenile’s accommodation needs but must not refuse to release the juvenile on bail solely because the juvenile does not have any or adequate accommodation.”.

(2) In the Criminal Justice (Children) (Northern Ireland) Order 1998, in Article 10H (inserted by section 6 of this Act), after paragraph (2) insert—

“(3) Where a court is deciding whether to refuse to release a child on bail under Article 10F, the court may consider the child’s accommodation needs; but this is subject to paragraph (4).

(4) The court must not conclude that the second condition in Article 10F is met solely because the child does not have any or adequate accommodation.”.

Custody on sentencing

Place of detention following sentencing

9. After Article 46B of the Criminal Justice (Children) (Northern Ireland) Order 1998, insert—

*“Place of detention***Custody following sentencing**

46BA.—(1) Where a court sentences a child to imprisonment or detention, the child must be detained in a juvenile justice centre.

5 (2) Paragraph (1) applies during any period in which the child is—

(a) detained under the sentence, and

(b) under the age of 18.

(3) Any sentence of imprisonment, and any statutory provision relating to persons sentenced to imprisonment, has effect subject to this Article.

10 (4) In paragraph (1), “detention” means detention under—

(a) Article 38A,

(b) Article 45(1) or (2), or

(c) Article 13(4)(b) or 14(5) of the Criminal Justice (Northern Ireland) Order 2008.”.

15 **Powers to sentence child to detention: amendment**

10.—(1) Article 45 of the Criminal Justice (Children) (Northern Ireland) Order 1998 (punishment of certain grave crimes) is amended in accordance with subsections (2) to (4).

(2) In paragraph (1) omit the words from “in such place” to the end.

20 (3) In paragraph (2) omit the words from “; and where such a sentence” to the end.

(4) For paragraphs (3) to (7) substitute—

25 “(3) An adult who is liable to be detained under this Article must be detained in such place and under such conditions as the Department of Justice may direct.

For provision relating to the detention of children, see Article 46BA.

(4) A person detained under this Article is, while so detained, in legal custody.”.

30 (5) Article 13 of the Criminal Justice (Northern Ireland) Order 2008 (life sentence or indeterminate custodial sentence for serious offences) is amended in accordance with subsections (6) and (7).

(6) In paragraph (4)(b) omit the words from “at such place” to the end.

(7) For paragraph (5) substitute—

35 “(4A) A person aged 18 or over who is liable to be detained in accordance with paragraph (4)(b) must be detained in such place and under such conditions as the Department of Justice may direct.

For provision relating to the detention of children, see Article 46BA of the Criminal Justice (Children) (Northern Ireland) Order 1998.

(5) A person detained in accordance with paragraph (4)(b) is, while so detained, in legal custody.”.

(8) Article 14 of the Criminal Justice (Northern Ireland) Order 2008 (extended custodial sentence for certain violent or sexual offences) is amended in accordance with subsections (9) and (10).

(9) In paragraph (5) omit the words from “at such place” to “may direct”.

(10) For paragraph (7) substitute—

“(6A) A person aged 18 or over who is liable to be detained in accordance with paragraph (5) must be detained in such place and under such conditions as the Department of Justice may direct.

For provision relating to the detention of children, see Article 46BA of the Criminal Justice (Children) (Northern Ireland) Order 1998.

(7) A person detained in accordance with paragraph (5) is, while so detained, in legal custody.”.

Powers to sentence child to detention: removal

11.—(1) In section 5(1)(a) of the Treatment of Offenders Act (Northern Ireland) 1968 (power to make order for detention in a young offenders centre) for “sixteen” substitute “18”.

(2) In the Criminal Justice (Children) (Northern Ireland) Order 1998 omit Articles 39 to 44 (which provide for juvenile justice centre orders) and the italic heading before Article 39.

(3) In the Justice (Northern Ireland) Act 2002 omit section 56 (which provides for custody care orders but has not been brought into operation).

Youth custody and supervision orders

12.—(1) The Criminal Justice (Children) (Northern Ireland) Order 1998 is amended as follows.

(2) After Article 38 insert—

“Youth custody and supervision orders

Youth custody and supervision orders

38A.—(1) This Article applies where a child is found guilty by or before any court of an offence and—

(a) it appears to the court that the child was aged 14 or over when the offence was committed, and

(b) the offence is one which is punishable, in the case of an adult, with imprisonment, and for which the sentence is, in the case of an adult, not fixed by law as imprisonment for life.

(2) The court (subject to Article 32(1)) may make a youth custody and supervision order in relation to the child.

(3) A youth custody and supervision order is an order that the child is to be subject to a period of detention followed by a period of supervision.

For provision relating to the duration of such orders, see Article 38B.

(4) Where, in reliance on Article 30(2), a court makes a youth custody and supervision order in relation to an adult, the period of detention is in such place and under such conditions as the Department of Justice may direct.

(5) Where a court makes a youth custody and supervision order, it may, subject to Chapter 5 of Part 2 of the Criminal Justice (Northern Ireland) Order 2008, impose a curfew requirement or an electronic monitoring requirement (within the meaning of that Chapter) during all or any part of the period of supervision.

(6) For the purposes of paragraph (1)(a), where the offence is found to have been committed—

(a) over a period of 2 or more days, or

(b) at some time during a period of 2 or more days,

it is taken to have been committed on the last of those days.

(7) A person detained under this Article is, while so detained, in legal custody.

Term of youth custody and supervision orders

38B.—(1) A youth custody and supervision order is to have effect for such period as may be specified in it.

(2) That period must not be less than 6 months or, subject to paragraph (3), more than 2 years.

(3) The period specified in the order may be up to four years in the case of a child aged 16 or over if—

(a) the sentence is imposed under Article 70(2) of the Firearms (Northern Ireland) Order 2004,

(b) the sentence is imposed under paragraph 2(5A) of Schedule 2 to the Violent Crime Reduction Act 2006, or

(c) the court is of the opinion that an order for a period of 2 years would be inadequate in all the circumstances.

(4) The period of detention which the child is to serve under the order is such period as may be specified in the order, but this is subject to paragraphs (5) and (6).

(5) The period of detention specified in the order must not be—

(a) less than 3 months, or

(b) more than one half of the period of the order.

(6) The period of detention which the child is liable to serve is to be reduced by any period which is a relevant period within the meaning of section 26(2) and (2A) of the Treatment of Offenders Act (Northern Ireland) 1968 (reduction of sentence).

(7) Any reference in any statutory provision to the length of the period of a youth custody and supervision order must be construed as a reference to the length of the period specified by the court and not the length of the period as reduced by paragraph (6), unless the context otherwise requires.

5 **Taking of children to juvenile justice centres**

38C.—(1) This Article applies where a court has made a youth custody and supervision order in respect of a child.

(2) The court must cause the order to be delivered to the person responsible for taking the child to the juvenile justice centre specified in the order.

10 (3) That person must deliver the order to the person for the time being in charge of the centre.

(4) The court must cause a record of the child to be sent to the managers or to the person for the time being in charge of the juvenile justice centre.

15 (5) The record of the child must contain such information in the possession of the court with respect to the child as is in the opinion of the court likely to be of assistance to the managers of the juvenile justice centre.

(6) Any person who knowingly harbours or conceals the child after the time has come for the child to go to the juvenile justice centre is guilty of an offence.

20 (7) A person who is guilty of an offence under paragraph (6) is liable on summary conviction to a fine not exceeding level 3 on the standard scale, or to imprisonment for a term not exceeding 6 months, or to both.

(8) Paragraph (9) applies where—

25 (a) the person authorised to take the child to a juvenile justice centre is, when the time comes for the child to go to the centre, unable to find the child or unable to obtain possession of the child, and

(b) a lay magistrate is satisfied by complaint on oath that there is reasonable ground for believing that a person named in the complaint can produce the child.

30 (9) The lay magistrate may issue a summons requiring the person so named to—

(a) attend at a court of summary jurisdiction on such day as may be specified in the summons, and

(b) produce the child.

35 (10) If the person required by the summons to produce the child fails to do so, without reasonable excuse, that person is guilty of an offence (in addition to any other liability to which that person may be subject).

40 (11) A person who is guilty of an offence under paragraph (10) is liable on summary conviction to a fine not exceeding level 2 on the standard scale.

Supervision under a youth custody and supervision order

38D.—(1) During the period of supervision under a youth custody and supervision order, the offender is to be under the supervision of—

(a) a probation officer, or

5 (b) such other person as the Department may designate.

(2) Before the commencement of the period of supervision the managers of the juvenile justice centre where the offender is detained must give the offender a notice specifying—

(a) the period of supervision, and

10 (b) the person under whose supervision the offender will be (“the supervisor”).

(3) Before the commencement of the period of supervision the supervisor must give the offender a notice specifying—

(a) any requirement imposed by the court under Article 38A(5), and

15 (b) any other requirement with which the offender must comply.

(4) During the period of supervision the supervisor may give the offender a notice specifying any alteration to the matters mentioned in paragraph (2)(b) or (3)(b).

20 (5) The Department may designate another person to issue a notice under paragraph (4).

(6) The Department may make rules regulating the supervision of an offender subject to a youth custody and supervision order, but such rules may not regulate any matter which may be regulated by rules under Article 44 of the Criminal Justice (Northern Ireland) Order 2008.

25 (7) Rules under paragraph (6) are subject to negative resolution.

(8) The Department may pay the expenses incurred by a probation officer or any person designated under paragraph (1)(b) arising from the supervision of an offender under this Article.

(9) In this Article “the Department” means the Department of Justice.

30 **Breach of supervision requirements**

38E. Schedule 1B makes provision about breach of supervision requirements imposed under a youth custody and supervision order.

Restriction on making two or more youth custody and supervision orders

35 **38F.**—(1) This Article applies where—

(a) a court is dealing with an offender for two or more associated offences, and

(b) the court forms the opinion that it is appropriate to make a youth custody and supervision order in respect of two or more of the offences.

5 (2) The court may not make more than one youth custody and supervision order in respect of the relevant offences.

(3) In determining the term of the order and any requirement to be imposed under Article 38A(5), the court must take into consideration each of the relevant offences.

10 (4) The court must state in open court and in ordinary language how it discharged the duty under paragraph (3).

(5) In paragraphs (2) and (3) “the relevant offences” means the offences in respect of which the court considers it to be appropriate to make a youth custody and supervision order.

15 **Offender subject to youth custody and supervision order and custodial sentence imposed**

38G.—(1) This Article applies where—

(a) an offender is subject to a youth custody and supervision order,
(b) the offender is convicted by or before a court of an offence, and
20 (c) the court imposes a custodial sentence on the offender for the offence.

(2) The court must revoke the youth custody and supervision order.

(3) In passing the sentence for the offence, the court must take into account—

25 (a) the period for which, but for the revocation, the order would have continued in effect, and,
(b) in particular, the proportion of that period during which the child was due to be subject to a period of supervision.

(4) If the court decides to make a further youth custody and supervision order, Article 38B has effect as if—

30 (a) in paragraph (2) the words “less than 6 months or” were omitted;
(b) in paragraph (5), sub-paragraph (a) were omitted.”.

(3) Schedule 3 inserts into the Criminal Justice (Children) (Northern Ireland) Order 1998 a new Schedule 1B (Youth Custody and Supervision Orders: Breach of Supervision Requirements).

35 *Custody on remand or committal*

Place of detention following remand in custody

13. After Article 10I of the Criminal Justice (Children) (Northern Ireland) Order 1998 (inserted by section 6 of this Act), insert—

*“Remand and committal***Detention following remand in or committal to custody**

10J.—(1) Where a court remands in or commits to custody a child arrested for, charged with or convicted of an offence, the child must be detained in a juvenile justice centre.

(2) Paragraph (1) applies during any period in which the child—

(a) is remanded in or committed to custody, and

(b) is under the age of 18.

(3) Any order of a court remanding a child in or committing a child to custody and any statutory provision relating to persons remanded in or committed to custody has effect subject to this Article (except the provision mentioned in paragraph (4)).

(4) This Article does not apply where a court considers it appropriate to remand a child to customs detention under section 152 of the Criminal Justice Act 1988.

(5) In this Article, “commits to custody” means commits to custody following arrest, for trial or for sentencing.”.

Remand in custody exceeding three months

14. After Article 10J of the Criminal Justice (Children) (Northern Ireland) Order 1998 (inserted by section 13 of this Act), insert—

“Remand in custody exceeding three months

10K.—(1) Paragraph (2) applies where a court is deciding whether to remand a child charged with an offence for a further period such that the total period for which the child is remanded in custody will exceed three months.

(2) The court must have regard to—

(a) the likely period of any custodial sentence which a court would have the power to impose if the child is convicted of the offence in question, and

(b) the extent (if any) to which the total period for which the child is remanded in custody will exceed the likely period of any custodial sentence.

(3) Where a court remands a child in custody for a further period such that the total period for which the child is remanded in custody will exceed three months, the court must give reasons for doing so in open court.”.

Consideration of time spent on remand in custody

15. After Article 32 of the Criminal Justice (Children) (Northern Ireland) Order 1998, insert—

“Consideration of time spent on remand in custody

32A.—(1) This Article applies where a child has been found guilty of an offence and a court is deciding—

(a) whether to impose a sentence or order other than a custodial sentence, or

(b) where the court has a discretion to impose a custodial sentence, whether a sentence of that kind is justified.

(2) Before making the decision, the court must consider any period for which the child has been remanded in custody in connection with the offence.

(3) If the court decides that a custodial sentence is justified, nothing in this Article affects the court’s power to determine the length of that sentence.”.

Place of detention in custody for contempt of court

16. In Article 47 of the Criminal Justice (Children) (Northern Ireland) Order 1998 (limitation on punishment for contempt of court), after paragraph (2) insert—

“(3) Where a child is ordered to be detained in reliance on paragraph (2), the child must be detained in a juvenile justice centre.”.

Removal of powers to remand or commit a child to custody

17.—(1) In the Treatment of Offenders Act (Northern Ireland) 1968—

(a) in section 2(a)(ii) (detention in young offenders centre of certain persons remanded or committed in custody) for “fifteen” substitute “18”;

(b) in section 5(3)(a) (detention in young offenders centre of persons not less than 16 but under 21 years of age for default) for “sixteen” substitute “18”.

(2) Omit Article 31 of the Criminal Justice (Children) (Northern Ireland) Order 1998 (remand for purpose of obtaining information).

Supplementary

Minor and consequential amendments

18. In Schedule 4—

(a) Part 1 makes consequential amendments relating to bail for children;

(b) Part 2 makes minor and consequential amendments relating to the custody of children on sentencing, remand and committal.

Transitional provisions and savings: custody of children

19.—(1) The amendments made by sections 9 to 17, section 18(b) and Part 2 of Schedule 4 apply in relation to any sentence, remand or committal ordered by

a court after commencement (whether the proceedings in which the order is made began before or after commencement); but this is subject to subsection (2).

(2) The amendments made by section 11(1) and paragraph 7(3)(a) of Schedule 4 (which relate to orders to be detained in a young offenders centre) do not apply where a court is passing a sentence in respect of an offence committed before commencement.

(3) Nothing in sections 9 to 17, section 18(b) or Part 2 of Schedule 4 affects the operation of any statutory provision in relation to a sentence, remand or committal to custody ordered by a court before commencement; but this is subject to subsection (4).

(4) In Article 44 of the Criminal Justice (Children) (Northern Ireland) Order 1998, insofar as it continues to have effect by virtue of subsection (3), the reference to “custodial sentence” includes a reference to a youth custody and supervision order.

(5) Where a child is subject to an order to be detained under section 5(1) of the Treatment of Offenders Act (Northern Ireland) 1968—

(a) made before commencement and to which subsection (3) applies, or

(b) made after commencement in reliance upon subsection (2),

the order has effect as if it required the child to be detained in a juvenile justice centre rather than a young offenders centre.

(6) For the purposes of subsection (2), where the offence is found to have been committed over a period of 2 or more days, or at some time during a period of 2 or more days, it must be taken to have been committed on the first of those days.

(7) In this section—

“child” means a person who is under the age of 18;

“commencement” means the coming into operation of sections 9 to 17, section 18(b) and Part 2 of Schedule 4;

“custody” includes prison;

“sentence” includes an order imposed in respect of an offence.

PART 3

USE OF LIVE LINKS

Interviews

20.—(1) Article 40 of the Police and Criminal Evidence (Northern Ireland) Order 1989 (responsibilities in relation to persons detained) is amended as follows.

(2) In paragraph (2)(a), for “a police officer investigating an offence for which that person is in police detention” substitute “another police officer at the police station where the person is in police detention, for the purpose of an interview that is part of the investigation of an offence for which the person is in police detention or otherwise in connection with the investigation of such an offence”.

(3) After paragraph (3) insert—

“(3A) Paragraphs (3B) and (3C) apply if the custody officer, in accordance with any code of practice issued under this Order, transfers or permits the transfer of a person in police detention to an officer mentioned in paragraph (2)(a) for the purpose of an interview that is to be conducted to any extent by means of a live link by another police officer who is investigating the offence but is not at the police station where the person in police detention is held at the time of the interview.

(3B) The officer who is not at the police station has the same duty as the officer mentioned in paragraph (2)(a) to ensure that the person is treated in accordance with the provisions of this Order and of any such codes of practice as are mentioned in paragraph (1).

(3C) If the person detained is subsequently returned to the custody of the custody officer, the officer who is not at the police station also has the same duty under paragraph (3) as the officer mentioned in paragraph (2)(a).

(3D) For the purpose of paragraph (3C), paragraph (3) applies as if the reference to “in his custody” were a reference to “being interviewed”.

(3E) In paragraph (3A), “live link” means an arrangement by which the officer who is not at the police station is able to see and hear, and to be seen and heard by, the person in police detention, any legal representative of that person and the officer who has custody of that person at the police station (and for this purpose any impairment of eyesight or hearing is to be disregarded).”.

Detention

21.—(1) The Police and Criminal Evidence (Northern Ireland) Order 1989 is amended as follows.

(2) After Article 46 (detention before charge: supplementary) insert—

“Use of live links

Functions of extending detention: use of live links

46ZA.—(1) The functions of a police officer under Article 43(1) or (2) may be performed, in relation to an arrested person who is held at a police station, by an officer who is not present at the police station but has access to the use of a live link if—

(a) a custody officer considers that the use of the live link is appropriate,

(b) the arrested person has had advice from a solicitor on the use of the live link, and

(c) the appropriate consent to the use of the live link has been given.

(2) In paragraph (1)(c), “the appropriate consent” means—

(a) in relation to a person who has attained the age of 18, the consent of the person;

(b) in relation to a person who has not attained the age of 18 but has attained the age of 14, the consent of the person and of the person’s parent or guardian;

(c) in relation to a person who has not attained the age of 14, the consent of the person's parent or guardian.

(3) The consent of a person who has not attained the age of 18 (but has attained the age of 14), or who is a vulnerable adult, may only be given in the presence of an appropriate adult.

(4) Article 43 applies with the modifications set out in paragraphs (5) to (7) in any case where the functions of a police officer under that Article are, by virtue of paragraph (1), performed by an officer who is not at the police station where the arrested person is held.

(5) Paragraphs (4)(b) and (8)(b)(iii) and (iv) of that Article are each to be read as if, instead of requiring the officer to make a record, they required the officer to cause another police officer to make a record.

(6) Paragraph (5) of that Article is to be read as if it required the officer to give the persons mentioned in that paragraph an opportunity to make representations—

(a) if facilities exist for the immediate transmission of written representations to the officer, either in writing by means of those facilities or orally by means of the live link, or

(b) in any other case, orally by means of the live link.

(7) Paragraph (8) of that Article is to be read as if the reference in sub-paragraph (b) to the right conferred by Article 59 were omitted.

(8) In this Article—

“live link” means an arrangement by which an officer who is not present at the police station where an arrested person is held is able to see and hear, and to be seen and heard by, the arrested person and the arrested person's solicitor (and for this purpose any impairment of eyesight or hearing is to be disregarded);

“vulnerable adult” means a person aged 18 or over who may have difficulty understanding the purpose of an authorisation under Article 43(1) or (2) or anything that occurs in connection with a decision whether to give such an authorisation (whether because of a mental disorder or for any other reason);

“appropriate adult”, in relation to a person aged under 18, means—

(a) the person's parent or guardian or, if the person is in the care of an authority or voluntary organisation, a person representing that authority or organisation,

(b) a social worker of an authority, or

(c) if no person falling within sub-paragraph (a) or (b) is available, any responsible person aged 18 or over who is not a police officer or a person employed for, or engaged on, police purposes;

“appropriate adult”, in relation to a vulnerable adult, means—

(a) a relative, guardian or other person responsible for the vulnerable adult's care,

- (b) a person who is experienced in dealing with vulnerable adults but who is not a police officer or a person employed for, or engaged on, police purposes, or
 - (c) if no person falling within sub-paragraph (a) or (b) is available, any responsible person aged 18 or over who is not a police officer or a person employed for, or engaged on, police purposes.
- (9) In paragraph (8)—
 - (a) in both definitions of “appropriate adult”, “police purposes” has the meaning given by section 77(1) of the Police (Northern Ireland) Act 2000;
 - (b) in the definition of “appropriate adult” in relation to a person aged under 18, “authority” and “voluntary organisation” have the meanings given by Article 2 of the Children (Northern Ireland) Order 1995.

15 **Warrants for further detention: use of live links**

- 46ZB.**—(1) A magistrates’ court may give a live link direction for the purpose of the hearing of a complaint under Article 44 for a warrant authorising further detention of a person, or the hearing of a complaint under Article 45 for an extension of such a warrant, if—
- (a) a custody officer considers that the use of a live link for that purpose is appropriate,
 - (b) the person to whom the complaint relates has had legal advice on the use of the live link,
 - (c) the appropriate consent to the use of the live link has been given, and
 - (d) it is not contrary to the interests of justice to give the direction.
- (2) In paragraph (1)(c), “the appropriate consent” means—
- (a) in relation to a person who has attained the age of 18, the consent of the person;
 - (b) in relation to a person who has not attained the age of 18 but has attained the age of 14, the consent of the person and of the person’s parent or guardian;
 - (c) in relation to a person who has not attained the age of 14, the consent of the person’s parent or guardian.
- (3) The consent of a person who has not attained the age of 18 (but has attained the age of 14), or who is a vulnerable adult, may only be given in the presence of an appropriate adult.
- (4) Where a live link direction is given, the requirement under Article 44(2)(b) for the person to whom the complaint relates to be brought before the court for the hearing does not apply.
- (5) In this Article—
- “live link direction” means a direction that a live link be used for the purposes of the hearing;

“live link” means an arrangement by which a person (when not in the place where the hearing is being held) is able to see and hear, and to be seen and heard by, the court during a hearing (and for this purpose any impairment of eyesight or hearing is to be disregarded);

“vulnerable adult” means a person aged 18 or over who may have difficulty understanding the purpose of the hearing or what occurs at it (whether because of a mental disorder or for any other reason);

“appropriate adult”, in relation to a person aged under 18, means—

(a) the person’s parent or guardian or, if the person is in the care of an authority or voluntary organisation, a person representing that authority or organisation,

(b) a social worker of an authority, or

(c) if no person falling within sub-paragraph (a) or (b) is available, any responsible person aged 18 or over who is not a police officer or a person employed for, or engaged on, police purposes;

“appropriate adult”, in relation to a vulnerable adult, means—

(a) a relative, guardian or other person responsible for the vulnerable adult’s care,

(b) a person who is experienced in dealing with vulnerable adults but who is not a police officer or a person employed for, or engaged on, police purposes, or

(c) if no person falling within sub-paragraph (a) or (b) is available, any responsible person aged 18 or over who is not a police officer or a person employed for, or engaged on, police purposes.

(6) In paragraph (5)—

(a) in both definitions of “appropriate adult”, “police purposes” has the meaning given by section 77(1) of the Police (Northern Ireland) Act 2000;

(b) in the definition of “appropriate adult” in relation to a person aged under 18, “authority” and “voluntary organisation” have the meanings given by Article 2 of the Children (Northern Ireland) Order 1995.”.

(3) In Article 46A (use of video-conferencing facilities for decisions about detention)—

(a) for the heading substitute “Use of live links for other decisions about detention”;

(b) in paragraph (1)—

(i) for “the Secretary of State” substitute “the Department of Justice”;

(ii) in sub-paragraph (b), for the words from “video-conferencing facilities” to the end substitute “a live link”;

(c) in paragraph (3), for “the facilities mentioned in paragraph (1)” substitute “a live link”;

(d) in paragraph (7), in each of sub-paragraphs (a)(i) and (b), for “the video-conferencing facilities” substitute “the live link”;

(e) for paragraph (9) substitute—

5 “(9) In this Article, “live link”, in relation to any functions, means an arrangement by which the functions may be performed by an officer who is not present at the police station where an arrested person is held but who is able (for the purpose of the functions) to see and hear, and to be seen and heard by, the arrested person and any legal representative of that person (and for this purpose any impairment of eyesight or hearing is to be disregarded).”.

10 (4) In consequence of the amendments made by subsection (3), in Article 41A (use of telephone for review under Article 41)—

(a) in paragraph (2)(a), for “video conferencing facilities” substitute “a live link”;

(b) in paragraph (5) “video-conferencing facilities” substitute “live link”.

15

PART 4

ADMINISTRATION OF JUSTICE

Functions relating to the police

Delegation of functions of the Policing Board

20 **22.** In Schedule 1 to the Police (Northern Ireland) Act 2000 (constitution etc of the NI Policing Board), after paragraph 24 insert—

“Delegation of functions

25.—(1) The Board may delegate any of the functions of the Board to—

(a) one or more members of the Board;

25 (b) one or more members of staff of the Board (employed as mentioned in paragraph 13(1) and (2)).

(2) A committee constituted under paragraph 24(1) or (1A) may delegate any of its functions to—

(a) one or more members of the committee;

30 (b) one or more members of staff of the Board (employed as mentioned in paragraph 13(1) and (2)).

(3) Functions delegated under sub-paragraph (1) or (2) are to be exercised under the general direction of the Board.”.

Removal of requirement to audit performance plans etc

35 **23.**—(1) In the Police (Northern Ireland) Act 2000 (“the 2000 Act”), omit section 29 (audit by Comptroller and Auditor General of performance plans and performance summary).

(2) In consequence of subsection (1), omit the following provisions—

(a) in section 31(1) of the 2000 Act, the words “29(4) or (4A) or”;

- (b) section 31(3) and (4) of that Act;
- (c) section 9 of the Police (Northern Ireland) Act 2003;
- (d) in Schedule 3 to the Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), paragraphs 56 and 58(1)(c) and (d).

Criminal proceedings

Consent for prosecution in cases of conspiracy to commit offence outside Northern Ireland

24. In Article 12 of the Criminal Attempts and Conspiracy (Northern Ireland) Order 1983 (restrictions on the institution of proceedings for conspiracy), in paragraph (5)—

- (a) for “Article 9” substitute “Article 9A”;
- (b) for “Attorney General for Northern Ireland” substitute “Advocate General for Northern Ireland”.

Death of child or vulnerable adult: limitation of power to “No Bill” alternative charge

25.—(1) Section 7 of the Domestic Violence, Crime and Victims Act 2004 (offence of causing or allowing death of child or vulnerable adult: evidence and procedure) is amended as follows.

(2) After subsection (3) insert—

“(3A) The power of a judge of the Crown Court under section 2(3) of the Grand Jury (Abolition) Act (Northern Ireland) 1969 (entry of “No Bill”) is not to be exercised in relation to the offence of murder or manslaughter unless it is also exercised in relation to the section 5 offence.”.

Examination in criminal proceedings through intermediary

26. In Article 21BA (examination of accused through intermediary) of the Criminal Evidence (Northern Ireland) Order 1999, for paragraph (1) substitute—

“(1) This Article applies to any proceedings—

- (a) in a magistrates’ court, or before the Crown Court, against a person for an offence,
- (b) in the county court on an appeal by a person under Article 140 or 141 of the Magistrates’ Courts (Northern Ireland) Order 1981, and
- (c) in the Court of Appeal on an appeal by a person under section 1 or 8 of the Criminal Appeal (Northern Ireland) Act 1980.”.

Legal aid

Legal aid charges to be registrable in the statutory charges register

27. In Schedule 11 to the Land Registration Act (Northern Ireland) 1970 (matters registrable in the Statutory Charges Register), after paragraph 53 insert—

“54.—(1) A charge—

(a) created by Article 12(5) of the Legal Aid, Advice and Assistance (Northern Ireland) Order 1981, or

5 (b) created in favour of the Department of Justice by Article 17(7) of the Access to Justice (Northern Ireland) Order 2003,

so far as the charge is within sub-paragraph (2) or (3).

(2) A charge is within this sub-paragraph if it—

(a) affects any registered or unregistered land, and

(b) is on property recovered or preserved on or after the relevant day.

10 (3) A charge is within this sub-paragraph if it—

(a) affects any registered land, and

(b) is on property recovered or preserved before the relevant day,

if immediately before that day the charge is not registered under section 44 as a burden affecting that land.

15 (4) So far as sub-paragraph (1) applies to a charge on any property, it does so from the time the charge is created (or, in the case of a charge created before the relevant day, from that day).

(5) The “relevant day”, in relation to any property, is determined in accordance with sub-paragraphs (6) and (7).

20 (6) If—

(a) the property is recovered or preserved by or for a person,

(b) it consists of an estate in any land, and

25 (c) the person has, or is entitled to, a legal estate in possession in that land, whether or not as a result of the recovery or preservation, and whether alone or with others,

the relevant day is the day on which this paragraph comes into operation.

(7) In relation to any other description of property, the relevant day is such day as the Department of Justice may by regulations specify in relation to that description of property.

30 (8) Regulations made under sub-paragraph (7) are subject to negative resolution.”.

Restriction on ordering taxation of legal aid costs

28.—(1) In the Judicature (Northern Ireland) Act 1978, after section 59 insert—

“Restriction on ordering taxation of costs in legal aid cases

35 **59A.**—(1) Neither the High Court, nor the Court of Appeal, may make an order for taxation of a person’s costs of any proceedings so far as those costs—

(a) are in respect of civil legal services, or criminal defence services, funded for the person by the Department, and

(b) have not been ordered to be paid otherwise than by the Department.

(2) Where—

(a) a court orders that part of the costs of civil legal services, or of criminal defence services, funded for a person by the Department is to be paid otherwise than by the Department or the person, and

(b) a court makes an order for taxation of that part of those costs, any amount payable by the Department in respect of any other part of those costs may be determined before or after that taxation is concluded and independently of it.

(3) Where a court orders that some or all of the costs of criminal defence services funded for a person by the Department are to be paid by the person, any amount payable by the Department in respect of any of those costs (including an amount that is to be reimbursed under the order) may be determined before or after, and independently of, the determination of the sum payable under the order by the person.

(4) For the purposes of this section, an order is not to be regarded as providing for costs to be paid by the Department just because amounts in respect of the ordered costs may or will be payable by the Department in the event (but only in the event) of those costs not being paid as ordered.

(5) It is not to be inferred that an order whose making is prevented by subsection (1) could have been made but for subsection (1).

(6) For the purposes of this section—

(a) services are “civil legal services” if, under or by virtue of Article 10(1) and (2) of the 2003 Order, they are civil legal services for the purposes of that Order;

(b) services are “criminal defence services” if, under or by virtue of the 2003 Order, they are criminal defence services for the purposes of that Order.

(7) In this section—

“the 2003 Order” means the Access to Justice (Northern Ireland) Order 2003 as for the time being amended or extended by or under any statutory provision;

“the Department” means the Department of Justice in its capacity as funder, under or by virtue of the 2003 Order, of civil legal services or criminal defence services;

“proceedings” means any proceedings, or part of proceedings, in or before—

(a) the High Court or the Court of Appeal,

(b) any other court, or

(c) any tribunal or any judge or other member, or officer, of a tribunal;

and a reference to a court includes any division or office, and any judge or officer, of that court.”.

(2) In section 32 of that Act—

(a) in subsection (2) (expenses of representative assigned to respondent to application for vexatious-litigant order) omit “and the expenses of any such solicitor or counsel shall be taxed and paid out of the legal aid fund”;

5 (b) after subsection (2) insert—

“(2A) The services of a solicitor or counsel assigned to a person under subsection (2) are to be treated as if they are civil legal services for the purposes of the Access to Justice (Northern Ireland) Order 2003 that the Department of Justice is required to fund under that Order with no payment
10 required from the person in respect of the services.”.

Criminal records certificates

Automatic review of certain criminal records certificates

29.—(1) Schedule 8A to the Police Act 1997 (which provides for an independent review of certain criminal record certificates) is amended as follows.

15 (2) In paragraph 6—

(a) in sub-paragraph (1), for head (b) substitute—

“(b) sub-paragraph (1A) or (1B) applies.”;

(b) after sub-paragraph (1) insert—

“(1A) This sub-paragraph applies where the certificate would—

20 (a) contain details of any spent conviction which occurred at a time when the person was under the age of 18, but

(b) not contain details of any conviction (whether spent or not) or other disposal occurring at a time when the person was aged 18 or over.

25 (1B) This sub-paragraph applies where the certificate would contain details of any other disposal which occurred at a time when the person was under the age of 18.”;

(c) in sub-paragraph (3)—

(i) in head (a), after “conviction” insert “which occurred at a time when the person was under the age of 18”;

30 (ii) in head (b), at the end, add “which occurred at a time when the person was under the age of 18”.

(3) In the cross-heading before paragraph 6, for the words from “containing” to the end, substitute “: spent convictions or other disposals of person under 18”.

Court security

Security at buildings used for courts and tribunals etc

30.—(1) The Justice (Northern Ireland) Act 2004 is amended as follows.

(2) In paragraph 1 of Schedule 3—

(a) at the end of sub-paragraph (3)(b) add “or otherwise for the purposes of providing security at a relevant building.”;

(b) after sub-paragraph (5) insert—

“(5A) In this Schedule, “relevant building” means any building within sub-paragraph (6) or (6A).”;

5 (c) in sub-paragraph (6), for “in this Schedule “relevant building” means any building” substitute “a building is within this sub-paragraph if it is a building”;

(d) after sub-paragraph (6) insert—

“(6A) A building is within this sub-paragraph if—

- 10 (a) it is owned or occupied by the Department of Justice,
(b) it is a building where a judicial officer sits, and
(c) it is specified in regulations made by the Department.”;

(e) at the end add—

15 “(9) The power to specify a building under sub-paragraph (6A)(c) includes a power to specify so much of that building as is used for the purposes of, or in connection with, the sittings of a judicial officer.

(10) For the purposes of this Schedule, “judicial officer” means—

- (a) a person holding a “listed judicial office” within the meaning given by section 2 of the Justice (Northern Ireland) Act 2002, or
(b) a person exercising judicial or quasi-judicial functions.”.

20 (3) In paragraph 3 of Schedule 3—

(a) in sub-paragraph (3)(a), for “office-holder mentioned in paragraph 1(6)” substitute “judicial officer”;

(i) for sub-paragraph (6)(b) and (c) substitute—

25 “(b) another judicial officer who is exercising functions in the building, or”.

(4) In section 21(3), after “paragraph 1(4)” insert “or (6A)”.

PART 5

FINAL PROVISIONS

Further provision

30 **31.**—(1) The Department of Justice may by regulations make—

- (a) such supplementary, incidental or consequential provision;
(b) such transitory, transitional or saving provision,

as it considers appropriate for the general purposes, or any particular purpose, of this Act, or in consequence of, or for giving full effect to, any provision made by this Act.

(2) Regulations under subsection (1) may amend, repeal, revoke or otherwise modify any statutory provision (including this Act).

(3) Regulations under subsection (1)—

- (a) except where they amend primary legislation, are subject to negative resolution;
 - (b) if they amend primary legislation, may not be made unless a draft of the regulations has been laid before and approved by a resolution of the Assembly.
- 5
- (4) In subsection (3) “primary legislation” means—
- (a) any Northern Ireland legislation;
 - (b) any Act of Parliament.

Interpretation

- 10 **32.** In this Act, “statutory provision” has the meaning given by section 1(f) of the Interpretation Act (Northern Ireland) 1954.

Commencement

- 33.**—(1) The following come into operation on the day after the day on which this Act receives Royal Assent—
- 15 (a) sections 22, 23, 24, 25, 27 and 29 (which contain miscellaneous amendments relating to the administration of justice);
- (b) this Part.
- (2) The following come into operation at the end of the period of 2 months beginning with the day on which this Act receives Royal Assent—
- 20 (a) sections 4 to 7 (which relate to bail for children);
- (b) sections 9 to 19 and Schedules 3 and 4 (which relate to custody of children).
- (3) The other provisions of this Act come into operation on such day or days as the Department of Justice may by order appoint.

Short title

- 25 **34.** This Act may be cited as the Justice Act (Northern Ireland) 2025.

SCHEDULES

SCHEDULE 1

Section 1.

NORTHERN IRELAND COMMISSIONER FOR THE RETENTION OF BIOMETRIC MATERIAL

- 5 After Schedule 2A to the Police and Criminal Evidence (Northern Ireland) Order 1989 (as inserted by the Crime and Security Act 2010) insert—

“SCHEDULE 2B

Article 63Z.

10 NORTHERN IRELAND COMMISSIONER FOR THE RETENTION OF BIOMETRIC MATERIAL

1.—(1) The Northern Ireland Commissioner for the Retention of Biometric Material is to hold office in accordance with the terms of the Commissioner’s appointment.

(2) Sub-paragraph (1) is subject to paragraphs 2 to 4.

- 15 2. The term for which the Commissioner is appointed must not exceed 4 years.

3. The Commissioner may not be appointed for more than 2 terms.

4. The Department of Justice may remove the Commissioner from office if the Department is satisfied that the Commissioner—

- 20 (a) before appointment to the office, failed to disclose to the Department a conviction for a criminal offence in Northern Ireland or elsewhere,
- (b) has been convicted of a criminal offence committed after the date of appointment to the office,
- 25 (c) has become bankrupt or made a composition or arrangement with creditors,
- (d) has failed, without reasonable cause, to discharge the functions of the office for a continuous period of 3 months,
- (e) has breached the terms and conditions of appointment, or
- (f) is otherwise unable or unfit to discharge the functions of the office.

- 30 5. The Department of Justice may—

- (a) pay in respect of the Commissioner any expenses, remuneration or allowances that the Department may determine;
- (b) after consultation with the Commissioner, provide the Commissioner with such staff, accommodation, equipment and other facilities as

the Department considers necessary for the carrying out of the Commissioner's functions.

6. —(1) The Commissioner may authorise, to such extent as the Commissioner determines, any person to perform any of the functions mentioned in sub-paragraph (2).

(2) The functions are—

- (a) the Commissioner's functions under Article 63G(4)(c) and (5);
- (b) any functions conferred on the Commissioner by regulations under Article 63U(3)(d).

(3) The giving of authority under sub-paragraph (1) does not—

- (a) affect the Commissioner's responsibility for the performance of the functions, or
- (b) prevent the Commissioner from performing the functions.”.

SCHEDULE 2

Section 2.

RETENTION OF FINGERPRINTS AND DNA PROFILES: AMENDMENTS

PART 1

FURTHER PROVISION IN RELATION TO CERTAIN DISPOSALS

1. The provisions of the Police and Criminal Evidence (Northern Ireland) Order 1989 which are inserted by section 1 are amended as follows.

2. In Article 63E(10), after the words “the person being given”, in the second place where they occur, insert “a conditional caution under section 71 of the Justice Act (Northern Ireland) 2011,”.

3. After Article 63P insert—

“Persons given a prosecutorial fine notice

63PA.—(1) This Article applies where P is given a prosecutorial fine notice under section 18 of the Justice Act (Northern Ireland) 2015.

(2) P's material may be retained until the end of the period of 2 years beginning with the date on which P was given the prosecutorial fine notice.”.

PART 2

MINOR AND CONSEQUENTIAL AMENDMENTS

Police and Criminal Evidence (Northern Ireland) Order 1989

5 4.—(1) Article 53 of the Police and Criminal Evidence (Northern Ireland) Order 1989 (interpretation of Part 6) is amended as follows.

(2) In paragraph (1) at the appropriate places in alphabetical order insert—

““DNA profile” means any information derived from a DNA sample;

“DNA sample” means any material which—

- (a) has been taken by the police from a person—
 - 10 (i) under a power conferred by Article 62 or 63, or
 - (ii) with the consent of that person, in connection with the investigation of an offence by the police;
- (b) consists of or includes human cells; and
- (c) was taken for the purpose of deriving a DNA profile from
 - 15 it;”.

(3) After paragraph (3) insert—

“(3A) In paragraph (3) the reference to the destruction of a sample does not include a reference to the destruction of a sample under Article 63W (requirement to destroy samples).

20 “(3B) Any reference in Article 63F, 63G or 63Y to a person being charged with an offence includes a reference to a person being informed that the person will be reported for an offence.”.

25 5. In Article 53A(2) (list of “qualifying offences” for the purposes of Part 6) in sub-paragraph (h) (offences under the Theft Act (Northern Ireland) 1969) for “section 9” substitute “section 8, 9”.

6. After Article 53A insert—

“Persons convicted of an offence

53B.—(1) For the purposes of this Part, any reference to a person who is convicted of an offence includes a reference to—

- 30 (a) a person who has been given a caution in respect of the offence—
 - (i) which was committed when that person was aged 18 or over, and
 - (ii) which, at the time of the caution, the person has admitted,
- (b) a person who has been found not guilty of the offence by reason of
 - 35 insanity, or

(c) a person who has been found to be unfit to be tried and to have done the act charged in respect of the offence.

(2) This Part, so far as it relates to persons convicted of an offence, has effect despite anything in the Rehabilitation of Offenders (Northern Ireland) Order 1978.

(3) See also Article 53(4) (which deals with findings equivalent to those mentioned in paragraph (1)(b) or (c) by courts which exercise jurisdiction under the laws of countries or territories outside Northern Ireland).”.

7. In Article 61 (fingerprinting), in paragraph (5C)(b) (as inserted by section 83(1) of the Justice Act (Northern Ireland) 2015), for “63B(2)” substitute “63C(1)”.

8. In Article 63 (non-intimate samples)—

(a) in paragraph (3A)(c)(i) (as substituted by section 8(6) of the Crime and Security Act 2010) for “64ZA” substitute “63W”;

(b) in paragraph (3AA) (as inserted by section 83(2) of the Justice Act (Northern Ireland) 2015)—

(i) for “63B(2)” substitute “63C(1)”;

(ii) for “63P(2), (3) or (10)” substitute “63W(2) or (3)”.

9. Article 64 (destruction of fingerprints and samples) is repealed.

10.—(1) Part 6 (questioning and treatment of persons by police) is amended as follows.

(2) Before Article 53 (interpretation of Part 6) insert—

“Interpretation”.

(3) Before Article 54 (abolition of certain powers to search persons) insert—

“Searches etc”.

(4) Before Article 57 (right to have someone informed) insert—

“Rights to have someone informed and to legal advice”.

(5) Before Article 60 (tape recording of interviews) insert—

“Interviews”.

(6) Before Article 61 (fingerprinting) insert—

“Taking of fingerprints, samples, etc”.

(7) Before Article 64A (photographing of suspects etc) insert—

“Photographs”.

11.—(1) Article 89 (orders and regulations) is amended as follows.

(2) After paragraph (2) insert—

“(2A) Regulations under Article 63G(4)(b), 63R(4), 63T(5) or 63U(1) may not be made unless a draft of the regulations has been laid before, and approved by a resolution of, the Assembly.”.

(3) In paragraph (3), for “or 46A” substitute “46A or 63E(11)”.

5 *Police (Amendment) (Northern Ireland) Order 1995*

12. Article 13 of the Police (Amendment) (Northern Ireland) Order 1995 is repealed.

Criminal Justice and Police Act 2001

10 13. Sections 83 and 138(10) of the Criminal Justice and Police Act 2001 are repealed.

Police and Criminal Evidence (Amendment) (Northern Ireland) Order 2007

14. Article 35 of the Police and Criminal Evidence (Amendment) (Northern Ireland) Order 2007 is repealed.

Counter-Terrorism Act 2008

15 15.—(1) The Counter-Terrorism Act 2008 is amended as follows.

(2) Section 15(4) to (6) is repealed.

(3) In section 18(8)(c), for “63A and 64” substitute “and 63A to 63Y”.

Crime and Security Act 2010

16. Sections 15, 22 and 58(5) of the Crime and Security Act 2010 are repealed.

20 *Protection of Freedoms Act 2012*

17.—(1) In Part 6 of Schedule 1 to the Protection of Freedoms Act 2012, paragraph 7 is amended as follows.

(2) In sub-paragraph (1), for “Article 64” (in both places) substitute “Article 63B”.

25 (3) In sub-paragraph (2), for paragraphs (a) and (b) substitute “the material may be retained”.

Criminal Justice Act (Northern Ireland) 2013

18. In the Criminal Justice Act (Northern Ireland) 2013, the following are repealed—

30 (a) section 9;

(b) Schedules 2 and 3;

(c) Part 3 of Schedule 4.

Justice Act (Northern Ireland) 2015

19.—(1) The Justice Act (Northern Ireland) 2015 is amended as follows.

35 (2) Sections 84 to 87 are repealed.

(3) In Schedule 8, paragraph 7 is repealed.

Counter-Terrorism and Border Security Act 2019

20.—(1) The Counter-Terrorism and Border Security Act 2019 is amended as follows.

5 (2) In Schedule 2, paragraph 5(2) is repealed.

(3) In Schedule 4, paragraph 20(9) is repealed.

National Security Act 2023

21. In Schedule 18 to the National Security Act 2023, paragraph 5(8) and (9) is repealed.

10 *Northern Ireland Troubles (Legacy and Reconciliation) Act 2023*

22. In section 35(4) of the Northern Ireland Troubles (Legacy and Reconciliation) Act 2023, for paragraphs (a) and (b) of the definition of “destruction provisions” substitute—

15 “(a) Article 63C of the Police and Criminal Evidence (Northern Ireland) Order 1989,”.

SCHEDULE 3

Section 12.

YOUTH CUSTODY AND SUPERVISION ORDERS: BREACH OF SUPERVISION
REQUIREMENTS

20 In the Criminal Justice (Children) (Northern Ireland) Order 1998, after Schedule 1A insert—

“SCHEDULE 1B

Article 38E.

YOUTH CUSTODY AND SUPERVISION ORDERS: BREACH OF SUPERVISION
REQUIREMENT

25

Interpretation

1. In this Schedule—

“supervision requirement” means a requirement with which an offender must comply under Article 38A(5) or 38D(3) or (4);

“breach”, in relation to a supervision requirement, means a failure to comply with it.

Breach of a supervision requirement: issue of summons or warrant

2.—(1) Sub-paragraph (2) applies where—

5 (a) a youth custody and supervision order has been made in respect of an offender, and

(b) it appears upon a complaint made to a lay magistrate that the offender has breached a supervision requirement under the order.

(2) The magistrate may—

10 (a) issue a summons directed to the offender requiring the offender to appear before a court of summary jurisdiction specified in the summons, or

(b) if the complaint is in writing and on oath, issue a warrant for the offender’s arrest requiring the offender to be brought before a court of summary jurisdiction specified in the warrant.

Power of court to deal with offender for breach of supervision requirement

3.—(1) If it is proved to the satisfaction of the court that the offender has, without reasonable excuse, breached a supervision requirement the court may deal with the matter under paragraph 4 or 5.

20 (2) In making an order under paragraph 4 or imposing a fine under paragraph 5, the court must take into account the extent to which the offender has complied with any supervision requirement under the youth custody and supervision order.

(3) In this paragraph and in paragraphs 4 and 5—

25 “the court” means the court before which an offender appears or is brought under paragraph 2;

“the offender” means the offender referred to in that paragraph;

“the youth custody and supervision order” means the order referred to in that paragraph.

30 *Further period of detention*

4.—(1) Where the youth custody and supervision order is in force, the court may order the offender to be detained for a period not exceeding the remainder of the period during which the order has effect.

35 (2) If the offender is an adult when the order under sub-paragraph (1) is made, the offender must be detained in a young offenders centre.

(3) Where the court makes an order under sub-paragraph (1), any remaining period of supervision is to be reduced by the further period of detention.

40 (4) A further period of detention is to be treated for the purposes of any statutory provision as being ordered by the youth custody and supervision order and, accordingly—

- (a) the offender is to be treated as being detained under the youth custody and supervision order during any such period, and
- (b) any reference to the period for which a person is detained under a youth custody and supervision order includes any further period of detention.

5

Fine

5.—(1) The court may impose on the offender a fine not exceeding £1,000.

(2) Where a court imposes a fine—

10

- (a) if the offender is under the age of 16, it must order that the fine is to be paid by the parent or guardian of the offender instead of by the offender, unless it is satisfied that there is a good reason for not doing so, and

15

- (b) if the offender is aged 16 or over but is under the age of 18, it may order that the fine is to be paid by the parent or guardian of the offender instead of by the offender.

20

(3) A fine ordered to be paid by a parent or guardian may be recovered from the parent or guardian by distress or by imprisonment in default of payment in the same manner as if the order had been made on the conviction of the parent or guardian of the offence for which the youth custody and supervision order was made.

(4) A parent or guardian may appeal to a county court against an order under sub-paragraph (2).”.

SCHEDULE 4

Section 18.

25

CHILD BAIL AND CUSTODY: MINOR AND CONSEQUENTIAL AMENDMENTS

PART 1

AMENDMENTS RELATING TO BAIL

Criminal Justice (Children) (Northern Ireland) Order 1998

30

1. Omit Article 12 of the Criminal Justice (Children) (Northern Ireland) Order 1998 (release on bail).

Criminal Justice (Northern Ireland) Order 2003

2. In Article 6 of the Criminal Justice (Northern Ireland) Order 2003 (arrest for absconding or breaking conditions of bail), in paragraph (7) for “Articles 12 and 13” substitute “Part 3B”.

Criminal Justice Act 2003

3. In section 96 of the Criminal Justice Act 2003 (application of Part 10 to Northern Ireland) in subsection (13), in the text to be substituted for section 88(1), after subsection (1)(b) insert—

5 “(ba) Article 48ZA of that Order does not apply, and”.

Criminal Justice (Northern Ireland) Order 2008

4. In Article 43 of the Criminal Justice (Northern Ireland) Order 2008 (release of child on bail: curfew and electronic monitoring requirements), in paragraph (1), for “Article 12” substitute “Article 10E”.

10 PART 2

AMENDMENTS RELATING TO CUSTODY ON SENTENCING, REMAND AND COMMITTAL

General amendment of references to a juvenile justice centre order

15 5.—(1) In any statutory provision passed or made before this Act, a reference to a juvenile justice centre order made under Article 39 of the Criminal Justice (Children) (Northern Ireland) Order 1998 must be construed as a reference to a youth custody and supervision order made under Article 38A of that Order.

(2) Sub-paragraph (1) does not apply—

- (a) to any reference that is amended or omitted by this Act;
- (b) where the context otherwise requires.

20 *Prison Act (Northern Ireland) 1953*

6.—(1) The Prison Act (Northern Ireland) 1953 is amended as follows.

(2) In section 10(1) for “, young offenders centre and remand centre” substitute “and young offenders centre”.

25 (3) In section 47(1A)—

- (a) omit paragraph (b);
- (b) in the words following paragraph (c) omit “and remand centres”.

Treatment of Offenders Act (Northern Ireland) 1968

7.—(1) The Treatment of Offenders Act (Northern Ireland) 1968 is amended as follows.

30 (2) In section 2—

- (a) omit paragraphs (b) and (c);
- (b) in the words after paragraph (c) and in the heading omit “and remand centres”.

(3) In section 5—

35 (a) in subsection (1) omit “, subject to Article 47 of the Criminal Justice (Children) (Northern Ireland) Order 1998,”;

(b) in subsection (3) omit “, subject to Article 46C of the Criminal Justice (Children) (Northern Ireland) Order 1998.”.

(4) Omit section 9 and the italic heading before it.

(5) In section 33(1) omit the definitions of “remand centre” and “remand home”.

5 *Rehabilitation of Offenders (Northern Ireland) Order 1978*

8. In Article 6(6) of the Rehabilitation of Offenders (Northern Ireland) Order 1978, after sub-paragraph (b) insert—

“(ba) a youth custody and supervision order under Article 38A of that Order of 1998;”.

10 *Magistrates’ Courts (Northern Ireland) Order 1981*

9.—(1) The Magistrates’ Courts (Northern Ireland) Order 1981 is amended as follows.

(2) In Article 47(6) for sub-paragraph (b) substitute—

15 “(b) a youth custody and supervision order under Article 38A of the Criminal Justice (Children) (Northern Ireland) Order 1998.”.

(3) In Article 140(2A)(c) for the words from “Article 41(2)” to the end substitute “paragraph 4 or 5 of Schedule 1B to the Criminal Justice (Children) (Northern Ireland) Order 1998”.

Child Abduction (Northern Ireland) Order 1985

20 10.—(1) The Child Abduction (Northern Ireland) Order 1985 is amended as follows.

(2) In Article 3(7) for “juvenile justice centre order” substitute “youth custody and supervision order”.

(3) In the Schedule, in paragraph 4—

25 (a) in sub-paragraph (1) for “juvenile justice centre order” substitute “youth custody and supervision order”;

(b) in sub-paragraph (3) for ““juvenile justice centre order” has the same meaning as in Article 39” substitute ““youth custody and supervision order” has the same meaning as in Article 38A”.

30 *Mental Health (Northern Ireland) Order 1986*

11.—(1) The Mental Health (Northern Ireland) Order 1986 is amended as follows.

(2) In Article 44—

(a) in paragraph (1A)(b), for “or (5)” substitute “, (5) or (5A)”; and

35 (b) in paragraph (8), for the words from “including an order” to the end substitute “including a youth custody and supervision order under Article 38A of the Criminal Justice (Children) (Northern Ireland) Order 1998”.

(3) In Article 50A(7)—

(a) omit sub-paragraph (c);

(b) in the words following paragraph (d) omit “, remand centre”.

(4) In Article 53(5)(a) for the words from “including an order” to “juvenile justice centre” substitute “including a youth custody and supervision order under Article 38A of the Criminal Justice (Children) (Northern Ireland) Order 1998”.

5 (5) In Article 54(2)(a) omit “or remand centre”.

Criminal Justice Act 1988

12. In section 36(9)(aa) of the Criminal Justice Act 1988, in the text to be substituted, in sub-paragraph (ii) for “or (5)” substitute “, (5) or (5A)”.

Police and Criminal Evidence (Northern Ireland) Order 1989

10 13. In Article 2(5) of the Police and Criminal Evidence (Northern Ireland) Order 1989 for “, a juvenile justice centre and a remand centre” substitute “and a juvenile justice centre”.

Treatment of Offenders (Northern Ireland) Order 1989

14. In Article 13 of the Treatment of Offenders (Northern Ireland) Order 1989—
 15 (a) in paragraph (1), for “17” substitute “18”;
 (b) omit paragraph (6);
 (c) in the heading, for “17” substitute “18”.

Criminal Justice Act 1991

20 15. In section 92 of the Criminal Justice Act 1991, in subsection (4)(b) omit “remand centre or”.

Children (Northern Ireland) Order 1995

16.—(1) The Children (Northern Ireland) Order 1995 is amended as follows.
 (2) In Article 2—
 (a) in paragraph (2), at the appropriate place insert—
 25 ““youth custody and supervision order” means an order under Article 38A of the Criminal Justice (Children) (Northern Ireland) Order 1998;”;
 (b) in paragraph (9)(b) for “juvenile justice centre order” substitute “youth custody and supervision order”.
 (3) In Article 107(5) for “juvenile justice centre order” substitute “youth custody and supervision order”.
 30 (4) In Schedule 4, in paragraph 4(1)(b) for “juvenile justice centre order” substitute “youth custody and supervision order”.

Juries (Northern Ireland) Order 1996

35 17. In Schedule 2 to the Juries (Northern Ireland) Order 1996, in the entry relating to governors or chaplains of certain establishments, in paragraph (c) omit “remand centre or”.

Criminal Justice (Northern Ireland) Order 1996

18.—(1) The Criminal Justice (Northern Ireland) Order 1996 is amended as follows.

(2) In Article 2(2), in the definition of “custodial sentence”, in paragraph (b)—

5 (a) in sub-paragraph (ii) after “Article 45(1)” insert “or (2)”;
(b) for sub-paragraph (iii) substitute—

“(iii) a youth custody and supervision order under Article 38A of the Criminal Justice (Children) (Northern Ireland) Order 1998;”.

(3) In each of the following, for “or (5)” substitute “, (5) or (5A)”—

- 10 (a) Article 2(9);
(b) Article 4(1);
(c) Article 10(1);
(d) Article 13(1);
(e) Article 15(1).

15 *Police Act 1997*

19.—(1) Section 93 of the Police Act 1997 is amended as follows.

(2) In subsection (6)(cbc) omit sub-paragraph (iii) (but not the “or” at the end).

(3) In subsection (8)—

- 20 (a) in the definition of “member of senior management for prisons in Northern Ireland”, in paragraph (b) omit “remand centres”;
(b) in the definition of “Northern Ireland prison officer” omit “or remand centre”;
(c) in the definition of “relevant Northern Ireland institution” omit “, remand centre”.

25 *Criminal Justice (Children) (Northern Ireland) Order 1998*

20.—(1) The Criminal Justice (Children) (Northern Ireland) Order 1998 is amended as follows.

(2) In Article 2—

30 (a) omit the definitions of “juvenile justice centre order”, “remand centre” and “secure accommodation”;

(b) at the appropriate place insert—

““youth custody and supervision order” means an order under Article 38A;”.

35 (3) In Article 3A, in paragraphs (6)(c) and (7)(f) for “juvenile justice centre order or custody care order” substitute “youth custody and supervision order”.

(4) Omit Article 13 (remand in custody).

(5) In Article 22(3), for sub-paragraph (e) substitute—

“(e) where a youth custody and supervision order is made in respect of the offence, the enforcement of any requirements imposed under Article 38D(3).”.

(6) In Article 45, in paragraph (8) omit “and Article 46”.

5 (7) In Article 49, in paragraphs (2) and (4) for “juvenile justice centre order” substitute “youth custody and supervision order”.

(8) In Article 51—

(a) in paragraph (1), for “offenders in respect of whom juvenile justice centre orders have been made” substitute “persons”;

10 (b) after that paragraph insert—

“(1A) The persons who are liable to be detained in a juvenile justice centre include—

(a) persons liable to be detained in a juvenile justice centre pursuant to a youth custody and supervision order or any other custodial sentence;

15 (b) persons remanded in or committed to custody in a juvenile justice centre by order of a court;

(c) persons taken to a juvenile justice centre in accordance with Article 8(3) or Article 39(6) of the Police and Criminal Evidence (Northern Ireland) Order 1989.”.

20 (9) In Schedule 1A, in paragraph 8(6)(b)—

(a) for “the place to which it would remand him if making an order under Article 13” substitute “a juvenile justice centre”;

(b) for “a remand centre” substitute “a young offenders centre”.

(10) In Schedule 2—

25 (a) in paragraph 1(1) for “juvenile justice centre order” substitute “youth custody and supervision order”;

(b) for paragraph 6 substitute—

“6.—(1) A person must not be detained in a juvenile justice centre if the person has attained the age of 18 years and 6 months.

30 Any power to detain a person in a juvenile justice centre has effect subject to this paragraph.

(2) If a person detained in a juvenile justice centre has attained the age of 18 years, the managers of the centre may, in accordance with arrangements approved by the Department of Justice, transfer the person to a young offenders centre for the unexpired part of the period for which that person is liable to be detained in a juvenile justice centre.

35 (3) In relation to a person transferred to a young offenders centre under this paragraph—

(a) an order under which the person was detained in the juvenile justice centre continues to have effect (subject to sub-paragraph (2));

40 (b) Article 54 (escapes) has effect as if references to a juvenile justice centre were references to a young offenders centre;

(c) the references to the managers of the juvenile justice centre in Articles 38D(2), 49 and 54(1) must be construed as references to the governor of the young offenders centre.

5 (4) The Department of Justice may at any time order a person who is transferred under this paragraph to be discharged.”.

(11) In Schedule 5 omit paragraphs 3 to 5, 19, 23, 24(a), 25 and 27.

Youth Justice and Criminal Evidence Act 1999

21.—(1) Paragraph 3(9) of Schedule 2 to the Youth Justice and Criminal Evidence Act 1999 is amended as follows.

10 (2) In the inserted subsection (13)—

(a) omit paragraph (a);

(b) in paragraph (c)(ii) for the words from “juvenile justice centre order” to the end substitute “youth custody and supervision order and to Article 38D(2) and (3) of the Criminal Justice (Children) (Northern Ireland) Order 1998.”.

15

(3) Omit the inserted subsection (14).

Justice (Northern Ireland) Act 2002

22.—(1) The Justice (Northern Ireland) Act 2002 is amended as follows.

(2) In section 46—

20 (a) in subsection (1) omit sub-paragraph (i);

(b) omit subsection (5).

(3) Omit section 64.

(4) In section 89 omit subsection (9).

(5) In Schedule 11 omit paragraphs 2 and 5.

25 (6) In Schedule 12—

(a) omit paragraphs 14, 30, 32 to 40, 42 to 46, 48, 50 to 52, 55(4), 57, 59, 60, 68, and 72 to 74;

(b) in paragraph 31(3), in inserted paragraph (2A)—

(i) in sub-paragraph (c) omit “or 44F(3) or (4)”;

30 (ii) in sub-paragraph (d) omit “44C(3)(a) or”;

(c) in paragraph 67—

(i) in sub-paragraph (3) omit the definition of “custody care order”;

(ii) in sub-paragraph (7) omit the definitions of “remand centre” and “secure accommodation”.

35

Sexual Offences Act 2003

23. In section 131 of the Sexual Offences Act 2003—

(a) for paragraph (d) substitute—

“(d) a period for which a person is ordered to be detained under Article 38A of the Criminal Justice (Children) (Northern Ireland) Order 1998;”;

(b) omit paragraphs (c) and (e).

5 *Marriage (Northern Ireland) Order 2003*

24. In Article 29(6) of the Marriage (Northern Ireland) Order 2003, in the definition of “prison” omit “a remand centre and”.

Civil Partnerships Act 2004

10 25. In section 149(5)(a) of the Civil Partnerships Act 2004 omit “a remand centre and”.

Firearms (Northern Ireland) Order 2004

26. In Article 70(4) of the Firearms (Northern Ireland) Order 2004, in the definition of “appropriate custodial sentence”—

(a) omit “and” at the end of sub-paragraph (a);

15 (b) in sub-paragraph (b), after “an offender who” insert “has attained the age of 18 but”;

(c) after sub-paragraph (b) add “and

(c) in the case of an offender who is under the age of 18 at that time, a youth custody and supervision order.”.

20 *Criminal Justice (Northern Ireland) Order 2005*

27.—(1) The Criminal Justice (Northern Ireland) Order 2005 is amended as follows.

(2) In Article 16 omit paragraph (1).

(3) In Article 25(2) for sub-paragraph (g) substitute—

25 “(g) a youth custody and supervision order under Article 38A of the Criminal Justice (Children) (Northern Ireland) Order 1998.”.

Violent Crime Reduction Act 2006

28.—(1) Paragraph 2 of Schedule 2 to the Violent Crime Reduction Act 2006 is amended as follows.

30 (2) In sub-paragraph (5)(b) after “the offender” insert “has attained the age of 18 but”.

(3) After sub-paragraph (5) insert—

“*(5A)* On a conviction where—

(a) sub-paragraph (3) applies, and

35 (b) the offender is aged under 18 at the time of conviction,
the court must impose (with or without a fine) a youth custody and supervision order of not less than 3 years, unless the court is of the opinion

that there are exceptional circumstances relating to the offence or to the offender which justify its not doing so.”.

Counter-Terrorism Act 2008

- 5 29. In section 45(3)(a)(v) of the Counter-Terrorism Act 2008 for “juvenile justice centre order under Article 39” substitute “youth custody and supervision order under Article 38A”.

Criminal Justice (Northern Ireland) Order 2008

- 30.—(1) The Criminal Justice (Northern Ireland) Order 2008 is amended as follows.
- 10 (2) In Article 4(1), in the definition of “custodial sentence”—
- (a) for paragraph (e) substitute—
- “(e) a youth custody and supervision order under Article 38A of that Order.”;
- (b) omit paragraph (f).
- 15 (3) In each of the following, for “or (5)” substitute “, (5) or (5A)”—
- (a) Article 4(2)(d);
- (b) Article 5(1)(b)(iii);
- (c) Article 7(3)(b);
- (d) Article 91(2)(b).
- 20 (4) Omit Article 36.
- (5) Omit Article 96.
- (6) In Schedule 5, in paragraph 7 omit sub-paragraphs (8) and (9).

Criminal Justice Act (Northern Ireland) 2013

- 25 31. In Schedule 2 to the Criminal Justice Act (Northern Ireland) 2013, in inserted Article 63H(6) for “juvenile justice centre order under Article 39” substitute “youth custody and supervision order under Article 38A”.

Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015

- 30 32. In paragraph 23(1) of Schedule 3 to the Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015, in the definition of “custodial sentence”, in paragraph (e), for “39A” substitute “38A”.

Justice Act (Northern Ireland) 2015

- 33.—(1) The Justice Act (Northern Ireland) 2015 is amended as follows.
- (2) In section 51(1)(d)—
- 35 (a) for “Article 41 of” substitute “Schedule 1B to”;
- (b) for “Article 40(2) or (3)” substitute “Article 38A(5) or 38D(3) or (4)”.
- (3) In section 76(1), in the definition of “custodial sentence”—

(a) for paragraph (e) substitute—

“(e) a youth custody and supervision order under Article 38A of that Order;”;

(b) omit paragraph (f).

5 (4) In Schedule 1, in paragraph 115 omit sub-paragraph (2).

Mental Capacity Act (Northern Ireland) 2016

34. —(1) The Mental Capacity Act (Northern Ireland) 2016 is amended as follows.

(2) In section 170(2)(b), for “or (5)” substitute “, (5) or (5A)”.

10 (3) In section 200(4)—

(a) in paragraph (a) for “a juvenile justice centre order under Article 39” substitute “a youth custody and supervision order under Article 38A”;

(b) omit paragraph (b) (but not the “or” at the end).

(4) In section 220(4) omit paragraph (b).

15 (5) In section 253(1) omit the definition of “remand centre”.

Houses in Multiple Occupation Act (Northern Ireland) 2016

35. In paragraph 8 of Schedule 1 to the Houses in Multiple Occupation Act (Northern Ireland) 2016 for “, a juvenile justice centre or a remand centre” substitute “or a juvenile justice centre”.

20

Justice Act (Northern Ireland) 2025

36. In the provisions of the Police and Criminal Evidence (Northern Ireland) Order 1989 inserted by section 1 of this Act, in Article 63M(9) for “a juvenile justice centre order under Article 39” substitute “a youth custody and supervision order under Article 38A”.

Justice Bill

[AS INTRODUCED]

A Bill to amend the law about the retention and destruction of fingerprints and DNA profiles under Part 6 of the Police and Criminal Evidence (Northern Ireland) Order 1989; to amend the law about the release of children on bail and about their detention; to permit the use of live links for the exercise of certain police functions; to make other provision in connection with the administration of justice; and for connected purposes.

Introduced by: Mrs Naomi Long, Minister of Justice

On: 17 September 2024

Bill Type: Executive Bill

ACCOMPANYING DOCUMENTS

**An Explanatory and Financial Memorandum is printed separately as
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